

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow detached accessory apartment; allow a detached accessory apartment with reduced setbacks; allow a dormer wider than 50% of the exterior wall next below; and allow a dormer within 3 feet of the intersection of the roof and wall plane (§1.5.4.G.1.c) as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site in a Single Residence 3 (SR3) district is an appropriate location for the proposed detached accessory dwelling as designed with reduced side and rear setbacks and a dormer wider than 50% of the exterior wall next below located within three feet of the intersection of the roof and wall plane. (§7.3.3.C.1)
2. The proposed detached accessory apartment as designed with reduced side and rear setbacks and a dormer wider than 50% of the exterior wall next below located within three feet of the intersection of the roof and wall plane will not adversely affect the neighborhood as it will have limited visibility from the adjacent public way and the reduced setbacks allow for a limited visual impact on abutting properties. (§7.3.3.C.2)
3. The proposed detached accessory apartment as designed with reduced side and rear setbacks and a dormer wider than 50% of the exterior wall next below located within three feet of the intersection of the roof and wall plane will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed detached accessory apartment is in keeping with the architectural integrity of the principal dwelling and character of the neighborhood. (§6.7.1.E.3)

PETITION NUMBER: #294-21

PETITIONER: Naomi Frankel

LOCATION: 39 Adella Avenue, Ward 3, on land known as Section 310, Block 13, Lot 2, containing approximately 10,000 square feet of land

OWNER: Naomi Frankel

ADDRESS OF OWNER: 39 Adella Avenue
Newton, MA

TO BE USED FOR: Single family dwelling with a detached accessory apartment

CONSTRUCTION: Wood-framed

EXPLANATORY NOTES: Special permit per §7.3 to:

- allow detached accessory apartment (§6.7.1.E.1)
- allow a detached accessory apartment with reduced setbacks (§3.1.3, §6.7.1.E.5)
- allow a dormer wider than 50% of the exterior wall next below (§1.5.4.G.1.b)
- allow a dormer within 3 feet of the intersection of the roof and wall plane (§1.5.4.G.1.c)

ZONING: Single-Residence 3

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. A set of plans and architectural drawings, titled “Proposed Accessory Dwelling Unit for the Frankel Residence, 39 Adella Ave, West Newton, MA 02465,” prepared by KMA, LLC, dated March 19, 2021:
 - i. A-001- Coversheet
 - ii. A-003- Zoning Information (includes a site plan entitled “Plan of Land in Newton, MA, 39 Adella Avenue, Proposed Additions,” prepared by Everett M. Brooks Co., signed and stamped by Bruce Bradford, Professional Land Surveyor, dated July 14, 2021.
 - iii. A-101- Floor Plans

- iv. A-102- Basement & Roof
 - v. A-201- Elevations
 - vi. A-202- Elevations (Proposed West Elevation and Proposed East Elevation)
 - vii. A-203- Views
2. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
 3. The owner of the principal structure/dwelling unit shall occupy either said principal structure/dwelling unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
 4. In the event ownership of the subject property changes, the new owner(s) shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
 5. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the petitioner shall hire a licensed pest control operator (the "Operator") to assess the property for pest and rodent activity and develop and implement a pest remediation action plan (the "Plan") to eliminate the activity and prevent off-site migration. The Plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Plan shall be submitted to the Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approvals shall be provided to the Department of Planning and Development.
 - c. The Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of the certificate of occupancy, the Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment.
 6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.

- b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, the Assessing Department and the Department of Planning and Development.
 - c. Submitted to the Director of the Department of Planning and Development the proposed accessory structure's exterior finish material for review and approval.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
7. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.