

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 exceed the floor area ratio (the "FAR") from .22 to .35, where .27 is the maximum allowed by-right, to allow a detached accessory apartment, and to allow over 700 square feet of garage ground floor area, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed addition and accessory structure with over 700 square feet of combined garage ground floor area and detached accessory apartment which exceed the FAR because the additions and accessory structure were approved by the Chestnut Hill Local Historic District Commission and the additional floor area is broken up between two buildings. (§7.3.3.C.1)
2. The proposed addition and accessory structure with over 700 square feet of garage area and detached accessory apartment which exceed the FAR will not adversely affect the neighborhood because the addition is subordinate to the dwelling and the carriage house replaces a garage that is out of context with the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because one driveway will serve the site. (§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 increase in the floor area ratio from .22 to .35, where .27 is allowed by right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the addition is subordinate to the house, the additional floor area is broken up between two buildings, and the proposed carriage house is in keeping with the original building plans as well as the historic character of the property. (§3.1.3, §3.1.9)

PETITION NUMBER: #336-21

PETITIONER: David and Lauren Thill

LOCATION: 12 Kingsbury Road, on land known as Section 63, Block 26, Lot 7, containing approximately 21,731 square feet of land

OWNER: David and Lauren Thill

ADDRESS OF OWNER: 12 Kingsbury Road  
Newton, MA 02467

TO BE USED FOR: Single Family Home with a Detached Accessory Apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To allow an accessory apartment in a detached structure; to exceed the floor area ratio, and to allow over 700 square feet of garage ground floor area (§6.7.1.E.1, §3.4.4.E.1, §3.1.3, §3.1.9, §7.3.3)

ZONING: Single Residence 1 district

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. "12 Kingsbury Road Proposed Conditions" signed and stamped by Bruce Bradford, Professional Land Surveyor, dated June 25, 2021
  - b. Architectural Plans, prepared by D. Michael Collins Architects, signed and stamped by David Michael Collins, not dated, consisting of ten (10) sheets:
    - i. Proposed Front Elevation, A2.0
    - ii. Proposed Right Elevation, A2.1
    - iii. Proposed Rear Elevation, A2.2
    - iv. Proposed Floor Plans, FAR
    - v. Proposed Basement Plan A1.0
    - vi. Proposed First Floor Plans, A1.1
    - vii. Proposed Second Floor Plans, A1.2
    - viii. Proposed Attic Floor Plan, A1.3
    - ix. Proposed Carriage House Elevations, Front and West, A2.4

x. Proposed Carriage House Plan, A2.3

c. Materials Plan prepared by Robert Hanss Inc., dated June 14, 2021, L-1

2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, the Engineering Division of Public Works, and the Fire Department.
3. This special permit shall allow two separate building permits to be issued, one for the construction of the accessory building with an accessory apartment, and another for the addition to the principal dwelling. The accessory building may receive a temporary certificate of occupancy, provided however no final inspection/occupancy permit shall be issued for the accessory building until all the work and associated relief described in this special permit are complete.
4. The accessory apartment may not be held in separate ownership from the principal structure/dwelling unit.
5. 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.
6. 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.
7. 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. 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.

8. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
  - d. The petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
  
9. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - 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 a professional land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio of the structure.
  - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.
  - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.