

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 a detached accessory apartment, to allow a detached accessory apartment that does not meet principal building setbacks, to allow dormers which exceed 50% of the wall plane below, and to increase the nonconforming floor area ratio as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed detached accessory apartment with oversized dormers in a structure that does not meet principal setbacks because the setbacks for the existing accessory structure are being maintained. (§6.7.1.E.1.a; §6.7.1.E.4; §1.5.4.G.2.b; §7.3.3.C.1)
2. The proposed detached accessory apartment with oversized dormers in a structure that does not meet principal setbacks will not adversely affect the neighborhood because the structure is set back further into the site and will be minimally visible from the street. (§6.7.1.E.1; §6.7.1.E.5; §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§6.7.1.E.1; §6.7.1.E.5; §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§6.7.1.E.1; §6.7.1.E.5; §7.3.3.C.4)
5. The proposed increase in the nonconforming FAR from .37 to .45, where .33 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the FAR is broken up between two structures. (§3.1.3; §3.1.9; §7.8.2.C.2)

PETITION NUMBER: #359-22

PETITIONER: Elizabeth Bramson Boudreau

LOCATION: 33 Berkeley Street, on land known as Section 32, Block 31, Lot 4, containing approximately 11,097 square feet of land

OWNER: Elizabeth Bramson Boudreau

ADDRESS OF OWNER: 33 Berkeley Street  
Newton, MA 02465

TO BE USED FOR: Detached garage with accessory apartment

CONSTRUCTION: Wood frame, masonry

EXPLANATORY NOTES: Special permit to allow a detached accessory apartment that does not meet principal setbacks (§6.7.1.E.1.a; §6.7.1.E.4), to allow oversized dormers (§1.5.4.G.2.b) and to increase the nonconforming FAR (§3.1.3; §3.1.9; §7.8.2.C.2)

ZONING: Single Residence 1

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. Topographic Site Plan showing proposed conditions at 33 Berkeley Street, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated March 23, 2022.
  - b. Architectural Plans, prepared by Peter Sachs Architect, signed and stamped by Peter Sachs, dated June 2, 2022, consisting of three (3) sheets:
    - i. G-1 Proposed Floor Plans
    - ii. G-7 Proposed Building Elevations, front and left
    - iii. G-8 Proposed Building Elevations, right and rear
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 and Inspectional Services showing the approved structure maintaining the setbacks of the existing detached structure.
3. 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 submits a site plan showing the setbacks of the existing accessory structure being maintained for the construction of the detached garage with accessory apartment.
4. 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 professional land surveyor certifying compliance with Condition #1.
  - 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.