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#143-23

552-564 Commonwealth Avenue

CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

June 5, 2023

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 to amend Special Permit #276-08 to allow the conversion of the existing personal training facility use to a physical therapy office in the space at 552-564 Commonwealth Avenue 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 Multi Residence 1 (MR-1) district is an appropriate location for the proposed use as a physical therapy office because the building already features existing nonconforming commercial uses and the site is in close proximity to Newton Centre. (§7.3.3.C.1)
2. The proposed physical therapy office as developed and operated will not adversely affect the neighborhood because the use operates similarly to the previous use and the project complies with the parking requirement. (§7.3.3.C.2)
3. The proposed physical therapy office will not create a nuisance or serious hazard to vehicles or pedestrians because the use does not require any alterations to 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 change from one nonconforming use to another is not substantially more detrimental than the previous nonconforming use is to the neighborhood because they are both considered personal service uses and operate similarly. (§3.4.1 and §7.8.2.C.2)

PETITION NUMBER:

#143-23

PETITIONER:

Kimberly Paggi

LOCATION: 552-564 Commonwealth Avenue, Newton Lower Falls, Ward 6, on land known as Section 61 Block 03 Lot 22, containing approximately 13,000 sq. ft. of land

OWNER: 552 COMM AVE LLC C/O ARIN REALTY CO INC

ADDRESS OF OWNER: 112 Needham Street
Newton, MA 02464

TO BE USED FOR: Amend Special Permit #276-08 to allow physical therapy office use

RELIEF GRANTED: Special Permit to allow the conversion of a nonconforming personal fitness facility use to a nonconforming physical therapy office use (§3.4.1, §7.8.2.C.2)

ZONING: Multi Residence 1 (MR-1) District

The prior special permits for this property are as follows: Council Order #317-92 (2 & 3), for special permit/site plan approval and extension of a nonconforming use and structure by allowing a barber shop use and expansion of a frame shop. The conditions set forth in those prior special permits remain in full force and effect except as modified herein.

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. Set of plans prepared by VTP Associates, 132 Adams Street, Newton, MA, 02458, stamped and signed by Joe Porter, professional land surveyor:
 - "Area Plan of Land" dated April 28, 2008, and revised May 6, 2008
 - "Topographic Site Plan" dated February 9, 2008 and revised May 6, 2008
 - b. Set of plans prepared by Ranere Associates, stamped and signed by Ronald Ranere, registered architect, and dated May 20, 2008
 - "Building Plan & Elevations"
 - "Demo & Proposed Plans"
2. The proposed tenant shall keep the rear door to the facility shut in order to prevent any noise from disturbing abutter.
3. No building permit shall be issued by the City pursuant to this Special Permit unless all applicable terms and conditions have been complied with and the Petitioner has:

- a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
4. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit unless all applicable terms and conditions have been complied with and the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect certifying compliance with Condition #1.

Under Suspension of Rules
Readings Waived and Extension of Time Approved
20 yeas 0 nays 4 absent (Councilor Downs, Laredo, Noel, and Norton)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on June 7, 2023. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:


(SGD) CAROL MOORE

Acting

Clerk of the City Council

I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on June 7, 2023 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:


(SGD) CAROL MOORE

Clerk of the City Council