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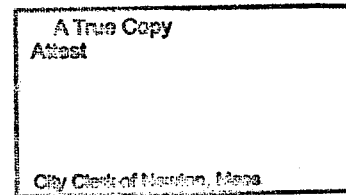
CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

April 18, 2023

#92-23
44 Ballard Street



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, which grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #480-18, which allowed an increase in the floor area ratio (FAR) from 0.29 to 0.36, where 0.35 is the maximum allowed by right, and allowed an increase in the dwelling's nonconforming height from 39.5 feet to 41.3 feet, where 36 feet is the maximum allowed by right; and to allow retaining walls greater than four feet in height within the required rear yard setback in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

- 1) The specific site is an appropriate location for the proposed series of retaining walls greater than four feet in height within a setback due to the topography of the specific site. (§7.3.3.C.1)
- 2) The amendment to Council Order #480-18 to allow the proposed series of retaining walls greater than four feet in height within a setback will not adversely affect the neighborhood as the walls are minimally visible and located away from the street. (§7.3.3.C.2)
- 3) The amendment to Council Order #480-18 allowing the proposed series of retaining walls greater than four feet in height within a setback 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 because the driveway and parking configuration remain unchanged. (§7.3.3.C.4)

PETITION NUMBER: #92-23

PETITIONERS: Melissa Fang and Andrew Hargens

LOCATION: 44 Ballard Street, on land known as Section 73, Block 31, Lot 11, containing approximately 16,634 square feet of land

OWNERS: Melissa Fang and Andrew Hargens

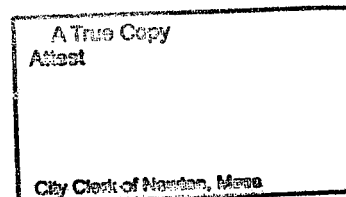
ADDRESS OF OWNER: 44 Ballard Street
Newton, MA

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Amendments to Council Order #480-18, which allowed an increase in the FAR and nonconforming height to allow retaining walls greater than four feet in height within the rear yard setback

ZONING: Single Residence 2 (SR2) district

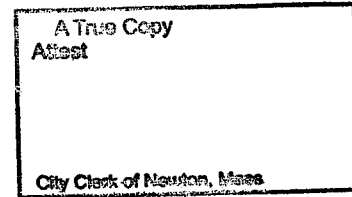


Approved subject to the following conditions:

The prior Special Permit for this site, Council Order #480-18, allowed an extension of the nonconforming height and FAR to allow expansions to the existing dwelling and garage. This special permit supersedes, consolidates, and restates provisions of the prior special permit. Any conditions in prior special permits not set forth in this Special- Permit #92-33 are null and void.

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 plan entitled "Plan of Land in Newton, MA," prepared by Everett M. Brooks Co., dated February 15, 2023, stamped and signed by Bruce Bradford, Professional Land Surveyor, on February 15, 2023.
 - b. A set of architectural plans entitled "Fang/Hargens Residence, 44 Ballard St., Newton, MA," dated April 30, 2018, as revised through August 9, 2018, stamped and signed by Peter Sachs, Registered Architect:
 - i. Title Sheet (A-0);
 - ii. Proposed Basement Floor Plan (A-1)
 - iii. Proposed First Floor Plan (A-2);
 - iv. Proposed Second Floor Plan (A-3);

- v. Proposed Attic Floor Plan (A-4);
- vi. Proposed Roof Floor Plan (A-5);
- vii. Proposed Front Elevation (A-6);
- viii. Proposed Right Elevation (A-7);
- ix. Proposed Back Elevation (A-8);
- x. Proposed Left Side Elevation (A-9);
- xi. Proposed Section 1 (A-10);
- xii. Proposed Section 2 (A-11);
- xiii. Proposed Sections Attic (A-12);
- xiv. Schedules (A-13);
- xv. Proposed First Floor- Garage (AG-1);
- xvi. Proposed First Floor Plan ("Attic Floor") (AG-2) (note: garage)
- xvii. Proposed Front Elevation (AG-4) (note: garage);
- xviii. Proposed Right Elevation (AG-5) (note: garage);
- xix. Proposed Back Elevation (AG-6) (note: garage);
- xx. Proposed Section ("A"&"B") (AG-8) (note: garage);
- xxi. Proposed Section ("C") (AG-9) (note: garage).



- c. A plan entitled "Hargens-Fang Residence, Balalrd (*sic*) Street, Newton, MA- Grading Plan," prepared by Kerry Lewis Landscape Architects, dated July 30, 2018.
 - d. A plan entitled "Hargens-Fang Residence, Balalrd (*sic*) Street, Newton, MA- Layout Plan," prepared by Kerry Lewis Landscape Architects, dated July 30, 2018.
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have submitted to the Engineering Division, for its review and approval, details and specifications regarding the methods to be used by the petitioner to adequately address drainage related issues and associated impacts on abutting properties.
3. 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, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan, including the details and specifications related to drainage per Condition 3 above.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Newton Historical Commission approving the final plans.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

4. 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 certifying compliance with Condition #1, including the floor area ratio (FAR) 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 licensed 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.
 - d. Provide a final Operations and Maintenance Plan (the "O&M Plan") for the stormwater management facilities to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
 - e. Provide an affidavit by the Project's engineer of record to the Department of Inspectional Services, the Department of Planning and Development, and the City Engineer attesting to the construction of the drainage system that it is in accordance with the City's 100-year storm event of 8.78 -inches over 24 hours, installed per their design intent to include reductions in TSS, phosphorus and draw down times of the system to be less than 72 hours.

Under Suspension of Rules

Readings Waived and Extension of Time Approved

21 Yeas, 0 Nays, 3 Absent (Councilors Grossman, Humphrey, Oliver)

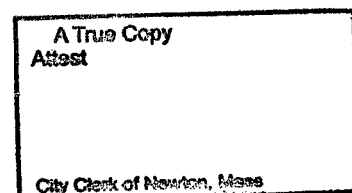
The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on April 20, 2023. The undersigned further certifies that 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:



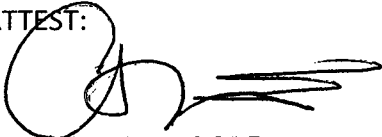
(SGD) CAROL MOORE

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 April 20, 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

