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CITY CLERK
NEWTON, MA. 02459

#220-22

42 Oakwood Road

CITY OF NEWTON

IN CITY COUNCIL

April 19, 2022

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 construct a two story addition, alter the nonconforming rear setback, allow a retaining wall greater than four feet in height within a setback and to increase the floor area ratio (FAR) from .37 to .51, where .44 is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

- The specific site is an appropriate location for the proposed addition that increases the FAR and retaining wall within the setback that exceeds four feet in height because the addition is subordinate to the structure and matches the existing house in style. (§7.3.3.C.1)
- The specific site is an appropriate location for the proposed retaining wall within the setback that exceeds four feet in height due to the topography of the site and to accommodate the existing driveway with reduced length. (§7.3.3.C.1)
- The proposed addition that increases the FAR and retaining wall within the setback that exceeds four feet in height will not adversely affect the neighborhood because there are similar retaining walls in the neighborhood due to the topography of the area. (§7.3.3.C.2)
- The proposed addition that increases the FAR and retaining wall within the setback that exceeds four feet in height will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in the FAR from .37 to .51, where .44 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 proposed design complements the existing structure in design and roof line. (§3.1.3, and §7.8.2.C.2)
- The proposed structure which alters the nonconforming rear setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition that alters the setback consists of a single story and allows for the removal of a detached garage with setbacks of less than one foot. (§3.1.3, and §7.8.2.C.2)

PETITION NUMBER: #220-22

PETITIONER: Lauren Kohl

LOCATION: 42 Oakwood Road, on land known as Section 22, Block 29, Lot 6, containing approximately 6,610 square feet of land

OWNER: Lauren Kohl

ADDRESS OF OWNER: 42 Oakwood Road
Newton, MA 02460

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.3, and §7.8.2.C.2, to alter the nonconforming rear setback, §5.4.2.B and §7.3.3 to allow a retaining wall greater than four feet in height within the front setback and §3.1.9, §3.1.3 and §7.3.3 to exceed the FAR

ZONING: Single Residence 2

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. Proposed Conditions Site Plan, prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated November 22, 2021, Revised March 16, 2021.
 - b. Architectural Floorplans, "Kolodner/Kohl Residence", prepared by Peter Sachs Architect, signed and stamped by Peter Sachs, Registered Architect, dated March 9, 2022 consisting of the following seven (7) sheets.
 - i. Proposed Basement Floor Plan, A-2
 - ii. Proposed First Floor Plan, A-3
 - iii. Proposed Second Floor Plan, A-4
 - iv. Proposed Roof Plan, A-5
 - v. Proposed Front Elevation, A-6
 - vi. Proposed Right and Left Elevations, A-7
 - vii. Proposed Back Elevation, A-8


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 Inspectional Services, Engineering Division of Public Works, Fire Department, and the Department of Planning and Development.
3. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action 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 Pest Control inspection report and the remediation action 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. Copies of such approvals shall be provided to the Department of Planning and Development.
 - c. The Pest Control 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 Pest Control 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 Pest Control 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 and neighborhood.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
4. 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 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 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.

5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - 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.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Councilor Bowman)


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 21, 2022. 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, City Clerk
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 21, 2022 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:


(SGD) CAROL MOORE, City Clerk
Clerk of the City Council