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Document Number	: 14429
Document Type	: DECIS
Recorded Date	: February 09, 2023
Recorded Time	: 02:52:58 PM
Recorded Book and Page	: 81238 / 267
Number of Pages(including cover sheet)	: 7
Receipt Number	: 2889708
Recording Fee	: \$105.00

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

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2023 JAN 19 AM 11:03

#563-22
219 Melrose Street

CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

January 17, 2023

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming residential use and determine appropriate density and dimensional controls for the proposed use, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed expanded structure that would extend a nonconforming two-family dwelling use would not be substantially more detrimental than the existing nonconforming use to the neighborhood as it would largely meet dimensional requirements for a single-family dwelling in this location with the exception of a front setback nonconformity of 4.1 feet and create a 25.9-foot setback where it is currently measures 0 feet. (§7.8.2.C.2)
2. The proposed density and dimensions of the proposed structure and use are appropriate for the location as the project largely meets dimensional requirements for a single-family dwelling in this location with the exception of a 25.9-foot front setback where 30 feet would be required for a single-family dwelling. (§3.1.2.A.3)

PETITION NUMBER: #563-22

PETITIONER: Fox & Toby LLC

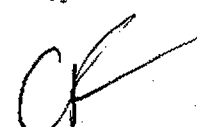
LOCATION: 219 Melrose Street, Ward 4, Newton, on land known as Section 41 Block 18 Lot 26, containing approximately 16,976 sq. ft. of land

OWNER: Fox & Toby LLC

ADDRESS OF OWNER: Fox & Toby LLC
Needham, MA 02492

TITLE REF.: BOOK 80481 PAGE 111 (Deed)

A True Copy
Attest



City Clerk of Newton, Mass.

Property Address: 219 Melrose Street, Newton

TO BE USED FOR: Two-unit dwelling
CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to: extend a nonconforming two-family dwelling use (§3.4.1, §7.8.2.C.2) and determine density and dimensional controls for the proposed use (§3.1.2.A.3)

ZONING: Single Residence 3 (SR3)

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 the following plans:

a. a set of site plans entitled "219 Melrose Street, Newton, Massachusetts," dated October 19, 2022, prepared by Dellorco Associates,, comprised of the following sheets:


- i. Proposed Drainage & Utility Plans, stamped and signed by Tsung Ting Chiang, Registered Professional Engineer on November 28, 2022, and Verne T. Porter, Professional Land Surveyor
- ii. Proposed Grading and Erosion Control Plan, stamped and signed by Tsung Ting Chiang, Registered Professional Engineer on November 28, 2022, and Verne T. Porter, Professional Land Surveyor
- iii. Zoning Plan, stamped and signed by Verne T. Porter, Professional Land Surveyor

b. a set of architectural plans entitled "Melrose Residences, 219 Melrose Street, Newton, MA 02466- Special Permit Set," prepared by MGD+ LLC and Ron Jarek, dated January 10, 2023, comprised of the following sheets:

- i. SP.00- Cover Page
- ii. SP.01- Existing Conditions Plan
- iii. SP.02- Zoning Analysis
- iv. SP.03- Architectural Site Plan
- v. SP.04- South & West Elevations
- vi. SP.05- North & East Elevations
- vii. SP.06- Landscape Plan
- viii. SP.07- 3D Views
- ix. SP.08- Rendering 1
- x. SP.09- Rendering 2

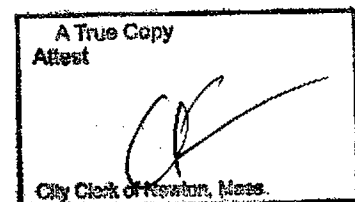
c. a document entitled "Floor Area Worksheet- 219 Melrose Street," indicating a proposed total gross floor area of 6,749 square feet and a proposed FAR (floor area ratio) of 0.398, signed and stamped by Ronald F. Jarek, Registered Architect

A True Copy
Attest

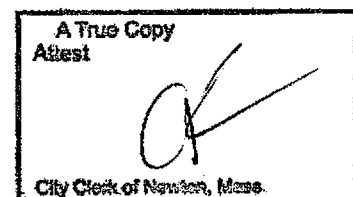


City Clerk of Newton, Mass.

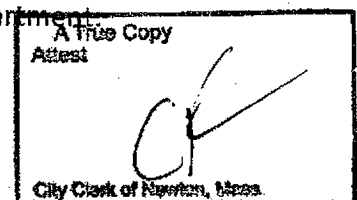
2. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor, which must be provided to the abutters and abutters to abutters to allow for communication of issues that may arise during the construction period.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
3. Deliveries of construction materials shall not occur before 7:00 am or after 5:00 pm.
4. All appliances and utilities for the building shall be all-electric, including heating and cooling.
5. 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 for review and approval prior to issuance of any demolition or building permit. A copy of such approval 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.
 - 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 and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction assessment of the site and the 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.
6. The Applicant shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment associated with demolition or ledge/rock removal:
- a. Prior to the issuance of any demolition, foundation, or building permit, the Applicant shall conduct a pre-construction survey of all buildings and structures within 250 feet of the Project (as measured from the Project's property lines) for which the owner of the building or structure has granted approval at no charge to the owners. The survey must include photos taken both inside and outside prior to construction to set a baseline of existing conditions. Copies of the survey and photos shall be provided to owners.
 - b. The Applicant shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
 - i. Measurements of static ground vibration prior to construction.
 - ii. Vibration level limits for demolition and construction activities based on building conditions and soil conditions. The limit should be determined using industry standards, provided that vibration level limits shall not exceed .50 peak particle velocity (PPV) at the property line of the Project.
 - c. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
 - d. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
 - e. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.



- f. The Applicant shall submit the vibration control plan to the Commissioner of Inspectional Services for review and approval prior to the issuance of any demolition, foundation, or building permit.
 - g. The Applicant shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Applicant shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
 - h. All work shall be performed within the vibration level limits established by the vibration control plan. If the vibration limit is exceeded, the construction activity causing the vibration shall cease and not resume until mitigation measures are implemented and notice is provided to the Commissioner of Inspectional Services.
 - i. The Applicant shall provide written notice to all property owners within 250 feet of the Project 48 hours prior to vibration-related activity that includes an explanation of the proposed activity, address of the site, date and time of the work, and contact information of the contractor overseeing the work.
 - j. Following construction, the Applicant shall with approval of the owners, re-inspect all homes, subject to the pre-construction survey to determine any damages caused by vibration. The Applicant shall maintain records of all complaints it receives for vibration-related damages.
7. 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 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. Provided a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
8. No Final Inspection and/or Occupancy Permit for the buildings 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 engineer 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 licensed land surveyor.
 - c. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.



- d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
- 9. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.

Under Suspension of Rules

Readings Waived and Extension of Time Approved

24 Yeas, 0 Nays

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 January 19, 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:

Carol Moore
(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 January 19, 2023 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

Carol Moore
(SGD) CAROL MOORE

Acting

Clerk of the City Council

