

CITY OF NEWTON

IN CITY COUNCIL

June 5, 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 allow a detached garage that exceeds the maximum allowed floor area ratio (FAR) as of right, and denies the requested relief to exceed a 20 foot wide curb cut, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed detached garage that will increase the property's FAR from 0.38 to 0.47 where 0.42 is the maximum allowed as the neighborhood features other single-family home with detached garages with limited visibility from adjacent properties and public rights-of-way. (§7.3.3.C.1)
2. The proposed detached garage that will increase the property's floor area ratio to 0.47 will not adversely affect the neighborhood as the neighborhood features other single-family home with detached garages with limited visibility from adjacent properties and public rights-of-way. (§7.3.3.C.2)
3. There will be no 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. (§7.3.3.C.4)
5. The proposed increase of the property's FAR to 0.47 is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as there are similar dwellings throughout the neighborhood with detached garages in the rear of the properties. (§3.1.9)
6. No evidence has been presented that literal compliance with the required curb cut width is impracticable due to the nature of the use or the lot characteristics; and no evidence has been presented that granting relief to exceed the 20 foot wide curb cut width would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13)

PETITION NUMBER: #34-23

PETITIONER: Yanmei Lin

LOCATION: 50 Elmore Street, Newton Centre, on land known as Section 13 Block 31 Lot 06, containing approximately 7,733 sq. ft. of land

OWNER: Yanmei Lin

ADDRESS OF OWNER: 50 Elmore Street
Newton, MA 02459

TO BE USED FOR: Single Family Residence

RELIEF GRANTED: Special Permit per §7.3.3 to exceed allowed floor area ratio (FAR) (§3.1.3, §3.1.9)

ZONING: Single Residence 2 (SR2)

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 site plan entitled "Plan showing Proposed Garage in Newton, MA," dated March 6, 2023, prepared by Miller Surveying Services, stamped and signed by James E. McGrath, Registered Professional Land Surveyor
 - b. Architectural plans entitled "50 Elmore Street, Newton, MA ," dated November 7, 2022 except as otherwise noted, comprised of the following sheets:
 - i. Proposed Site Plan (A-1) (dated March 20, 2023)
 - ii. Proposed Garage Plan (A-2)
 - iii. Proposed Second Roof Plan (A-3)
 - iv. Proposed Elevations (A-4)
 - v. Proposed Elevations (A-5)
2. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval 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. Provided a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1, provided that the curb cut shall not exceed 20 feet in width.
3. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval 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 a statement by a registered architect or engineer certifying compliance with Condition #1 as modified by Condition 2(c) above.
 - 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.

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

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