

CITY OF NEWTON
IN CITY COUNCIL

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 alter and extend a nonconforming residential use in a Business 1 zone, alter a nonconforming side setback, and allow a structure with 36 feet in height and two and a half stories 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 three unit structure as designed because the structure is increasing by less than a foot in height and maintaining the number of stories. (§7.3.3.C.1; §4.4.1; §4.1.3; 4.1.2.B.3)
2. The proposed three-unit structure as designed will not adversely affect the neighborhood because there are other multifamily uses with three or more units in the neighborhood. (§7.3.3.C.2; §4.4.1; §4.1.3; 4.1.2.B.3)
3. There will not be a nuisance or serious hazard to vehicles or pedestrians because the petitioner is maintaining the driveway location. (§7.3.3.C.3; §4.4.1; §4.1.3; 4.1.2.B.3)
4. Access to the sites over streets is appropriate for the types and number of vehicles involved. (§7.3.3.C.4; §4.1.3)
5. The proposed nonconforming residential use will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because the neighborhood his comprised of multifamily uses with more than three units and commercial uses. (§4.1.3; §4.4.1; §7.8.2.C.2)
6. The proposed alteration of a nonconforming side setback will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because it is only decreasing by two and half inches. (§4.1.3; §4.4.1; §7.8.2.C.2)

PETITION NUMBER: #178-22

PETITIONER: Bernardo and Lisa Marzilli

LOCATION: 2-4 Auburndale Avenue, on land known as Section 33, Block 23, Lot 13, containing approximately 11,702 square feet of land

OWNER: Bernardo and Lisa Marzilli

ADDRESS OF OWNER: 112 Pine Street

TO BE USED FOR: Three-Unit Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special Permit pursuant to §4.4.1 and §7.8.2.C.2 to further extend the nonconforming residential use; §4.1.3, and §7.8.2.C.2 to alter a nonconforming setback; and §4.1.2.B.3 and §7.3.3 to allow a structure measuring 36 feet in height and 2.5 stories

ZONING: Business 1 district

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 Site Plan, 2-4 Auburndale Avenue, prepared by Boston Survey, unsigned and unstamped, dated February 2, 2022.
 - b. Architectural Plans and Elevations, prepared by Timothy Lund, Architect., Inc., signed and stamped, dated February 4, 2022 consisting of five (5) sheets.
 - i. Proposed Roof Plan, A2.0
 - ii. Proposed First Floor Plan, A2.1
 - iii. Proposed Second Floor Plan, A2.1 (misnumbered)
 - iv. Proposed Left, North, and partial North Elevations A3.1
 - v. Proposed East and South Elevations A3.2
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan demonstrating compliance with the parking requirements in Section 5.1 for review and approval by the Department of Planning and Development.
3. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, and the Engineering Division of Public Works.

4. 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.
5. 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 Commissioner of Public Works, 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.
 - 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.
- d. Proposed methods for dust control including, but not limited to: 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.
 - e. 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.
 - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
6. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 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 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 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 and professional land surveyor 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. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.

- d. 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.