

CITY OF NEWTON

IN CITY COUNCIL

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 exceed the allowed floor area ratio (FAR) (§3.1.3; §3.1.9), allow an oversized dormer (§1.5.4.G.2.b), and allow a retaining wall exceeding 4 ft in the setback (§5.4.2.B), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Single Residence 2 (SR2) district is an appropriate location for the project as designed with an oversized dormer and retaining walls higher than four feet in height given the limited visual impact of the proposed oversized dormer and the sloped topography of the property. (§7.3.3.C.1)
2. The project as designed with an oversized dormer and retaining walls higher than four feet in height will not adversely affect the neighborhood given the limited visual impact of the proposed oversized dormer and the sloped topography of the property. (§7.3.3.C.2)
3. The project as designed with an oversized dormer and retaining walls higher than four feet in height will 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. (§7.3.3.C.4)
5. The proposed structure with an FAR of 0.38, where 0.33 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 as other dwellings in the area feature are of similar scope and visual presence. (§3.1.3; §3.1.9)

PETITION NUMBER: #190-22

PETITIONER: Brian Hickey and Shana Hickey

LOCATION: 20 Morton Street, Section 130, Block 27, Lot 1, containing approximately 15,064 square feet of land

OWNER: Brian Hickey and Shana Hickey

ADDRESS OF OWNER: 20 Morton Street
Newton, MA

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- exceed allowed floor area ratio (FAR) (§3.1.3; §3.1.9)
- allow an oversized dormer (§1.5.4.G.2.b)
- allow a retaining wall exceeding 4 ft in the setback (§5.4.2.B)

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 "Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #20 Morton Street (Sheet 1 of 2), dated, November 19, 2021, as revised through March 2, 2022, prepared by VTP Associates, signed and stamped by Marc Besio, Registered Professional Engineer and Joseph R. Porter, Professional Land Surveyor
 - b. a plan entitled "Details, Newton, Massachusetts, Showing Proposed Conditions at #20 Morton Street (Sheet 2 of 2), dated, November 19, 2021, as revised through March 2, 2022, prepared by VTP Associates, signed and stamped by Marc Besio, Registered Professional Engineer and Joseph R. Porter, Professional Land Surveyor
 - c. a set of architectural drawings entitled "Hickey Residence, 20 Morton St, Newton, MA," prepared by Peter Sachs, Architect, dated March 11, 2022, signed and Peter Sachs, Registered Architect, consisting of the following sheets:
 - i. Title Sheet (A-1)
 - ii. Title Sheet (showing proposed basement floor plan) (A-2)
 - iii. First Floor Plan (A-3)
 - iv. Proposed Second Floor Plan (A-4)
 - v. Proposed Attic Floor Plan (A-5)
 - vi. Proposed Roof Plan (A-6)
 - vii. Proposed Front Elevation (A-7)
 - viii. Proposed Right Elevation (A-8)
 - ix. Proposed Left Elevation (A-9)
 - x. Proposed Back Elevation (A-10)

- d. A document entitled "Floor Area Worksheet- 20 Morton St." indicating a proposed total gross floor area of 5,655 square feet and a proposed FAR of 0.38
2. 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. 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 and neighborhood assessment.
 - 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.
 3. 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 and the Engineering Division of Public Works
 - d. 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.

- e. Provided a Final Landscape Plan showing any new plantings for review and approval by the Director of Planning and Development. Such plan shall indicate appropriate screening of the proposed retaining walls and along the boundary line shared with the adjacent property to the south.
 - f. 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 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 certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement from the Engineering Division of the Department of Public Works certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
5. Notwithstanding the provisions of Condition #4 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.