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#227-23

107-109 Elliot Street

CITY CLERK  
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

July 10, 2023

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 allow four residential units with a nonconforming front setback, reduced width of parking stalls, a restricted end stall, and a retaining wall over four feet within a setback 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 residential project in the Multi-Residence 2 (MR-2) zone as designed because it adds two additional housing units while conforming with many of the dimensional standards set forth for the MR-2 district including height, side and rear setbacks, lot coverage, and open space. (§7.3.3.C.1)
2. The proposed residential project as designed will not adversely affect the neighborhood because the lot area per unit exceeds what is required for the district. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because parking will be provided on site and the shared driveway has adequate sightlines. (§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)

PETITION NUMBER:

#227-23

PETITIONER:

107-109 Elliot Street LLC

LOCATION:

107-109 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot 21, containing approximately 12,189 sq. ft. of land

OWNER: 107-109 Elliot Street LLC

ADDRESS OF OWNER: 39 Orchard Ave  
Waban, MA 02468

TO BE USED FOR: Construction of four residential units with a nonconforming front setback, reduced width of parking stalls, a restricted end stall, and a retaining wall over four feet within a setback

RELIEF GRANTED: Special Permit per §7.3: to allow to allow a multifamily dwelling (§3.4.1), alter a nonconforming front setback (§3.2.6 and §7.8.2.C.2), reduced parking stall widths §5.1.8.B.1 and §5.1.13), a restricted end stall (§5.1.8.B.1 and §5.1.13), and a retaining wall greater than four feet in height within a setback (§5.4.2)

ZONING: Multi Residence 2 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. Site plan prepared by VTP Associates Inc signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated February 17, 2023.
  - b. A set of architectural drawings prepared by MGD+ LLC, signed and stamped by Derek A. Rubinoff, dated April 10, 2023:
    - i. SP.04 Site Plan
    - ii. SP.05 Basement floor plan
    - iii. SP.06 First Floor plan
    - iv. SP.07 Second floor plan
    - v. SP.08 Attic plan
    - vi. SP.09 Roof plan
    - vii. SP.09a Solar ready roof
    - viii. SP.10 Front elevation
    - ix. SP.11 Left elevation
    - x. SP.12 Rear elevation
    - xi. SP.13 Right elevation

- c. A landscape plan entitled "Landscape Plan," prepared by MGD+ LLC, signed and stamped by Derek A. Rubinoff, dated April 10, 2023.
2. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval, should a system be required. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
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 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.
4. 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. This information shall also be posted in a clear and visible manner at the construction site.
  - 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.

- d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
  - 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.
5. All appliances and utilities for the building shall be all-electric, including heating and cooling.
6. 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. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
  - c. Submitted a Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with this Order.
  - d. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.

- e. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
7. 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 for the portion of the project for which occupancy is requested and the Petitioner has:
  - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1, including the as built FAR.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.
  - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
  - d. 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.
  - e. 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.
8. 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.
9. Provided that all other requirements in Condition #7 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).

Under Suspension of Rules


Readings Waived and Extension of Time Approved

21 yeas 0 nays 3 absent (Councilors Danberg, Gentile, and Kalis)

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 July 12, 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:

A handwritten signature in black ink, appearing to be 'Carol Moore', with a long horizontal flourish extending to the right.

(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 July 12, 2023 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

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(SGD) CAROL MOORE  
Clerk of the City Council