

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 allow a three story structure which exceeds the floor area ratio (FAR) from .30 to .49, where .41 is the maximum allowed by right, 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-story structure, which exceeds the maximum allowed FAR by right, because the topography of the site is such that the basement counts as the first story, and towards the FAR. (§7.3.3.C.1)
2. The proposed three-story structure, which exceeds the maximum allowed FAR by right, will not adversely affect the neighborhood because other structures in the neighborhood have exposed basements and similar topographies. (§7.3.3.C.2)
3. The proposed three-story structure, which exceeds the maximum allowed FAR by right, will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§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 FAR of .49, where .41 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 because the structure will present as two and a half stories from Elinor Road. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #222-22

PETITIONER: Phoebe and Andrew Lamuda

LOCATION: 115 Elinor Road, on land known as Section 81, Block 34, Lot 13, containing approximately 10,523 square feet of land

OWNER: Phoebe and Andrew Lamuda

ADDRESS OF OWNER: 115 Elinor Road
Newton, MA 02461

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To allow a three-story structure and to exceed the FAR (§3.1.9, §3.1.3 and §7.3.3)

ZONING: Single Residence 3

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 EMB, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated November 3, 2021, Revised February 3, 2022
 - b. Architectural Floorplans, prepared by Mayer and Associates, signed and stamped by Alan J. Mayer, registered architect, dated March 18, 2022 consisting of the following eight (8) sheets.
 - i. Proposed Basement Plan, A1-0
 - ii. Proposed First Floor Plan, A1-1
 - iii. Proposed Second Floor Plan, A1-2
 - iv. Proposed Roof Plan, A1-3
 - v. Proposed Front Elevation, A2-1
 - vi. Proposed Side Elevation, A2-2
 - vii. Proposed Rear Elevation, A2-3
 - viii. Proposed Side Elevation, mislabeled as rear, A2-4
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Inspectional Services, Engineering Division of Public Works, and the Department of Planning and Development.
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 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.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
- 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.
 - d. 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.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- 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, including the as built FAR of the structure.

- 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. 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.