

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 establish a detached accessory apartment, extending a nonconforming two-family residential use in a Single Residence 3 zone, and to allow a retaining wall exceeding 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 site is an appropriate location for the proposed retaining wall exceeding four feet in height within a setback due to the topography of the site representing a grade change of approximately twenty feet from the front to rear of the site and is in the same location as an existing retaining wall over four feet within the setback. (§3.4.2.B.1; 1.5.4.G.2.b; §7.3.3.C.1)
2. The proposed retaining wall exceeding four feet in height within a setback will not adversely affect the neighborhood because there is an existing retaining wall within the side setback that reached a height of over five feet. (§3.4.2.B.1; 1.5.4.G.2.b; §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§3.4.2.B.1; 1.5.4.G.2.b; §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§3.4.2.B.1; 1.5.4.G.2.b; §7.3.3.C.4)
5. The proposed extension of the nonconforming two family use is not substantially more detrimental than the existing nonconforming use is to the neighborhood because the accessory dwelling unit will be located in an existing historic structure. (§3.1.3; §3.1.9; §7.8.2.C.2)

PETITION NUMBER: #316-22

PETITIONER: Patrick Powdermaker

LOCATION: 117 Cypress Street, on land known as Section 65, Block 15, Lot 5, containing approximately 14,383 square feet of land

OWNER: Patrick Powdermaker

ADDRESS OF OWNER: 117 Cypress Street
Newton, MA 02459

TO BE USED FOR: Detached garage with accessory apartment, retaining walls greater than four feet in height within a setback

CONSTRUCTION: Wood frame, masonry

EXPLANATORY NOTES: Special permit pursuant to §3.4.1 and §7.8.2.C.2 to extend a nonconforming residential use in a single residence zone, and pursuant to §5.4.2.B and §7.3.3 to allow retaining walls exceeding four feet in height within a setback

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. Topographic Site Plan showing proposed conditions at 117 Cypress Street, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated May 18, 2022
 - b. Architectural Plans, prepared by Hatcher Architects, signed and stamped by T. Andrew Hatcher, dated May 11, 2022, consisting of one (1) sheets:
 - i. A1.1 Proposed Elevations
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 Planning and Development, Engineering Division of Public Works, and Fire Department.
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 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 council 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.
4. 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 a statement by a 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 professional land surveyor.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.