

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 extend a nonconforming contractor's yard use, allow a 23.1 foot high two-story building and a floor are ratio (FAR) of 0.73 on an undersized commercial lot, and waive certain parking facility requirements related to driveway width for one-way traffic, driveway entrance and exit width, and requiring moving of one vehicle to accommodate another vehicle, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed tree service contractor's office and storage facility would not be substantially more detrimental than the existing nonconforming use is to the neighborhood given its location in a mixed commercial and industrial area and because operational requirements provided by the Newton Zoning Ordinance as further identified by the Inspectional Services Department requires the use to mitigate potential negative impacts. (§7.8.2.C.2; §7.8.3.F.6)
2. The specific site is an appropriate location for a two-story building, as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73, given its location in a mixed commercial and industrial area and due to the unusual triangular shape of the lot. (§7.3.3.C.1)
3. The use as developed and operated with a two-story building as designed with a height of 23.1 feet on an undersized commercial lot and a floor area ratio (FAR) of 0.73 will not adversely affect the neighborhood given its location in a mixed commercial and industrial area and because operational requirements provided by the Newton Zoning Ordinance as further identified by the Inspectional Services Department should mitigate potential negative impacts. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. Granting exceptions to certain requirements provided by Sec. 5.1 to allow a reduced width for a one-way driveway, driveway entrance and exit widths exceeding 25 feet, and parking stalls that require the moving of other vehicles to access, would be appropriate

as literal compliance is impracticable due to the nature of the use and the operations associated with that use such as larger vehicles and sites triangular shape. (§5.1.13)

PETITION NUMBER: #313-23

PETITIONER: Lancaster Management LLC

LOCATION: 0 Rumford Avenue, Ward 4, Auburndale, on land known as Section 41 Block 35 Lot 12, containing approximately 8,302 sq. ft. of land

OWNER: Lancaster Management LLC

ADDRESS OF OWNER: 11 King Street
Cambridge, MA 02140

TO BE USED FOR: Storage warehouse and office

RELIEF GRANTED: Special Permit to:

- extend a nonconforming contractor’s yard (§4.4.1, §7.8.2.C.2, §7.8.3.F.6)
- allow a two-story building with 23.1 feet in height on an undersized commercial lot (§7.8.3.B)
- allow FAR of 0.73 on an undersized commercial lot (§7.8.3.C),
- reduce the required width for a driveway for one-way traffic (§5.1.8.D.1, §5.1.13)
- allow driveway entrance and exit widths exceeding 25 feet (§5.1.8.D.2, §5.1.13)
- allow parking requiring moving of one vehicle to accommodate another (§5.1.8.E.2, §5.1.13)

ZONING: Manufacturing (MAN) 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 the following plans:
 - a. A site plan entitled “Site Plan of Land in Newton, MA, Rumford Avenue,” prepared by Everett M. Brooks Co., dated September 14, 2023, signed and stamped by Michael S.

- Kosmo, Professional Engineer and Bruce Bradford, Registered Professional Land Surveyor.
- b. An architectural plan entitled “New Building, Rumford Avenue, Newton, MA, Building Elevations (SKA-8)” (showing the Rear Elevation, Left Side Elevation, Front Elevation, and Right Side Elevation), prepared by David P. Morton, Architect, signed and stamped by David P. Morton, Registered Architect.
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. 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.
4. 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. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
5. 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 and the petitioner has:
- a. Filed with the building permit record statements by a registered architect, professional land surveyor, or professional engineer, certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.