

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 the proposed project that requires relief to allow a retaining wall exceeding four feet within a setback, to alter and extend a nonconforming front setback of a detached garage, to further increase nonconforming lot coverage, and to allow two parking stalls within a front setback, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site in the Single-Residence 2 (SR-2) district is an appropriate location for the proposed project that requires relief to allow a retaining wall exceeding four feet within a setback and to allow two parking stalls within a front setback because the residence and garage predate the zoning code and exhibit existing nonconformities typical of other parcels in the neighborhood. (§7.3.3.C.1)
2. The project as proposed will not adversely affect the neighborhood because the use of the site will remain the same and the site already has existing nonconformities. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the existing curb cuts and driveway location will be 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. Literal compliance with the requirement that parking stalls not be located within a front setback is impracticable due to the shape of the lot because it is constrained by its triangular shape and location on a corner lot as well as the steep grade of the site, which limits alternative options for on-site parking. (§5.1.13)
6. The project which increases the nonconforming lot coverage and extends a nonconforming front setback for a detached garage is not substantially more detrimental than existing nonconformities are to the neighborhood because the neighborhood consists of properties with similar topographies, making it challenging to locate structures within the required setbacks and lot coverage without

significantly altering the grade. (§7.8.2.C.2)

PETITION NUMBER: #82-24

PETITIONER: Mark and Amy Nichols

LOCATION: 19 Waban Hill Road, Ward 7, Chestnut Hill, on land known as Section 63 Block 02 Lot 07, containing approximately 8,303 sq. ft. of land

OWNER: Mark and Amy Nichols

ADDRESS OF OWNER: 19 Waban Hill Road  
Chestnut Hill, MA 02467

TO BE USED FOR: Single family dwelling

RELIEF GRANTED: Special Permit relief to allow a retaining wall exceeding four feet within a setback, to alter and extend a nonconforming front setback of a detached garage, to further increase nonconforming lot coverage, and to allow two parking stalls within a front setback (§3.1.3, §3.4.3.A.1, §5.1.7.A, §5.1.13, §5.4.2.B, §7.8.2.C.2)

ZONING: Single-Residence 2

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. Plot plan prepared A-Plus Construction Services Corporation, signed and stamped by Michael A. Coleman, Professional Land Surveyor, dated August 31, 2023
2. 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 including all dimensional requirements.
3. 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.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.