

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 further increase the nonconforming floor area ratio, to alter and extend a nonconforming three story dwelling, and to alter and extend a nonconforming front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed additions, which will further the nonconforming Floor Area Ratio, are not substantially more detrimental than the existing nonconforming use to the neighborhood, as the additional floor area is located to the rear, is minimally visible from the street, and lower in height than the existing structure. (§7.8.2.C.2)
2. The proposed increase in the nonconforming FAR from .55 to .78 where .49 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 given the narrow shape of the lot with similarly sized dwellings are typical for this area along Lowell Avenue. (§3.2.11)
3. The proposed additions, which extend the nonconforming 3.5-story height, are not substantially more detrimental than the existing nonconforming use to the neighborhood, as the additions will be solely to the rear of the dwelling and minimally visible from the street. (§7.8.2.C.2)
4. The proposed additions, which will vertically extend the nonconforming front setback, are not substantially more detrimental than the existing nonconforming use to the neighborhood because the widening of the porch that extends the setback maintains the same setback and does not exacerbate the nonconformity. (§7.8.2.C.2)

PETITION NUMBER: #118-24

PETITIONER: MSGM, LLC

LOCATION: 442-444 Lowell Ave., Ward 2, Newtonville, on land known as Section 24 Block 28 Lot 52, containing approximately 9,600 sq. ft. of land

OWNER: MSGM, LLC

ADDRESS OF OWNER: 484 Commonwealth Ave.  
Boston, MA 02118

TO BE USED FOR: Two-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3, §7.8.2.C.2, §3.2.3 and §3.2.11 to extend the nonconforming front setback, further increase the nonconforming Floor Area Ratio, and extend the nonconforming three-story dwelling

ZONING: Multi Residence 1

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 stamped and dated by Paul J. Tyrell, Professional Land Surveyor, dated September 11, 2023.
  - b. Architectural plans prepared by Design Resource Team (DRT); signed, stamped, and dated by Nicholas Landry, Registered Architect dated January 19, 2024 consisting of the following sheets:
    - i. Proposed elevations (showing front and left), A200
    - ii. Proposed elevations (showing rear and right), A201
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.