

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 and to vertically extend a nonconforming side setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The proposed three-story dwelling which vertically extends a nonconforming side setback is not in derogation of the size, scale, and design of other structures in the neighborhood, as many of the surrounding dwellings predate the Zoning Ordinance and have similarly sized structures on similarly sized lots. (§3.1.3; §3.1.9)
2. The site is an appropriate location for the three-story dwelling as the dwelling is in close proximity to the Newton Highlands Village Center which has a mix of building types, uses and range of building sizes. (§7.3.3.C.1)
3. The three-story dwelling as developed and operated will not adversely affect the neighborhood, because the dwelling will remain within the height allowance set forth by the Zoning Ordinance. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians as the proposed additions do not require or proposed any change to parking or circulation. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the proposed additions do not require or proposed any change to parking or circulation. (§7.3.3.C.4)
6. The proposed addition which vertically extends the nonconforming side setback, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood as the project consists of minimal additions within the existing building footprint. (§7.8.2.C.2)

PETITION NUMBER: #140-24

PETITIONER: Sebastiao DaSilva

LOCATION: 86 Floral St., Newton Highlands, on land known as Section 52 Block 36 Lot 16, containing approximately 5,941 sq. ft. of land

OWNER: Sebastiao DaSilva

ADDRESS OF OWNER: 86 Floral St.
Newton, MA 02461

TO BE USED FOR: Two-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3, §3.4.1, and §7.8.2.C.2 to vertically extend a nonconforming side setback and to allow a three story, two family dwelling

ZONING: Multi-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 stamped and dated by Dennis O'Brien, Professional Land Surveyor, dated December 2, 2022.
 - b. Architectural plans prepared by Creative Home Plan, LLC; signed, stamped, and dated by Michael J. Burke, Professional Engineer, dated December 9, 2021 consisting of the following sheets:
 - i. Proposed elevations (showing front, rear, and right/west), A-3
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.