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#291-24
44 Erie Avenue

CITY CLERK
NEWTON, MA. 02459

CITY OF NEWTON

IN CITY COUNCIL

August 12, 2024

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 an oversized dormer exceeding 50% of the wall plane below as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for a dormer exceeding 50% of the length of the wall below as the proposed addition will enable the site to conform with building codes and the dwelling will continue to maintain the appearance and scale of other dwellings built in the late nineteenth century, which are common in the area. (§7.3.3.C.1; §3.1.3; §3.1.9)
2. The dormer exceeding 50% of the length of the wall below as developed and operated will not adversely affect the neighborhood as nonconformities are common given the development of most lots in the neighborhood predates the Zoning Ordinance. (§7.3.3.C.2; §3.1.3; §3.1.9)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the dormer exceeding 50% of the length of the wall below as no changes to site circulation or parking will occur. (§7.3.3.C.3; §3.1.3; §3.1.9)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in the construction of a dormer exceeding 50% of the length of the wall below as the proposed scope of work is similar to that for by-right projects. (§7.3.3.C.4; §3.1.3; §3.1.9)

PETITION NUMBER: #291-24

PETITIONER: Johanna and Todd Healy

LOCATION: 44 Erie Avenue on land known as Section 52 Block 43 Lot 38, containing approximately 13,032 sq. ft. of land

OWNER: Johanna and Todd Healy

ADDRESS OF OWNER: 44 Erie Avenue
Newton, MA 02461

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 to allow a dormer exceeding 50% of the length of the wall below (§1.5.4.G.2.b)

ZONING: Single Residence 2/Multi-Residence Transit

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 signed and stamped by Dennis O'Brien, Registered Land Surveyor, dated January 6, 2024.
 - b. Architectural plans signed and stamped by Robert J. Fizek, Registered Architect dated April 18, 2024 consisting of the following sheets:
 - i. Proposed elevations (showing front), A7
 - ii. Proposed elevations (showing right), A8
 - iii. Proposed elevations (showing rear), A9
 - iv. Proposed elevations (showing left), A10
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.

Under Suspension of Rules
Readings Waived and Approved
21 yeas 0 nays 3 absent (Councilors Block, Downs and Lobovits)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on August 14, 2024. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) CAROL MOORE
Clerk of the City Council

I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on August 14, 2024 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

A handwritten signature in black ink, appearing to be 'C Moore', with a long, sweeping horizontal line extending to the right.

(SGD) CAROL MOORE
Clerk of the City Council