



City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: September 26, 2024

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Joseph Iadonisi, Senior Planner

SUBJECT: **Working Session Memo for Petition #160-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow retaining walls along the sides and rear of the dwelling exceeding four feet in height within the side setbacks and to exceed Floor Area Ratio at 54-56 Indiana Terrace, Ward 5, Newton Upper Falls, on land known as Section 51 Block 40 Lot 06, containing approximately 7,760 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec. 7.3.3, 5.4.2.B, 3.2.3, 3.2.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Originally scheduled for April 2, 2024, the petitioners for 54-56 Indiana Terrace, applied for and were granted a continuance. The Public Hearing was open and the Land Use Committee held the item on August 27, 2024. This memorandum is intended to provide information in advance of the scheduled public hearing for 54-56 Indiana Terrace on October 1, 2024 and supplement and provide updates for the previously published planning memorandum.



54-56 Indiana Terrace

Background

The subject property applied for and obtained historic approval for demolition of the existing dwelling in January 2022. The petitioners then obtained Building Permit 22-5979 on April 29, 2023, to construct two single-family attached dwellings at 54-56 Indiana Terrace. During the course of construction, the petitioners built retaining walls in excess of four feet within the side setbacks and with changes to the grade, exceeded by-right Floor Area Ratio (FAR). On February 26, 2024, the petitioners applied for a Special Permit for the retaining walls and FAR. Originally scheduled for an April 2, 2024 Public Hearing, the petitioners applied for a continuance to submit revised architectural plans, a revised FAR worksheet, and a revised site plan. The Land Use Committee voted to hold the item during the August 27, 2024 Public Hearing for further review. A Councilor noted the Engineering Memorandum was completed in April 2024 and since the August 27th hearing, the Engineering Department has submitted an updated memorandum.

Project Updates

The petitioners have not submitted revised materials or communicated to staff that they plan to change or deviate from the plans submitted in advance of the August 27th Public Hearing. However, the Department of Public Works Engineering Division conducted a site visit and provided an updated Engineering Memorandum, see Attachment C.

The updated memorandum from Engineering cites the letter from Richard Volkin, Professional Engineer, assuring retaining wall design and stability, but that retaining walls fall under the jurisdiction of the Inspection Service Department. The memorandum reiterated that siltation controls, safety fences for walls over three feet, and a construction management plan were not in place. While the petitioners did provide an Operations and Maintenance Plan, Engineering noted that site and/or plan was missing catch basins, an alarm system, proper manhole cover grading, and annual reporting to the Department of Public Works.

Updated Analysis

The petitioners must provide an updated Operations and Maintenance plan for the stormwater system to the Department of Public Works prior to the issuance of a Building Permit. The Inspectional Services Department will also inspect the retaining walls prior to issuing a Certificate of Occupancy. As no updates to the project have occurred, Planning does not have further analysis of the project. Planning's previous analysis may be found in Attachment B, the working session memorandum provided in advance of the August 27th Land Use Committee Public Hearing, and Attachment C, the memorandum provided in advance of the April 2024 Public Hearing.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** August 2024 Land Use Committee Working Session Memorandum
- Attachment C:** April 2024 Land Use Committee Memorandum
- Attachment D:** Engineering Memorandum, September 18, 2024
- Attachment E:** Engineering Memorandum, April 25, 2024
- Attachment F:** Newton Historical Commission Decision
- Attachment G:** DRAFT Council Order



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 26, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Indiana Terrace LLC, Applicant
G. Michael Peirce, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow a retaining wall exceeding four feet in height in a setback and to exceed FAR

Applicant: Indiana Terrace LLC	
Site: 54-56 Indiana Terrace	SBL: 51040 0006
Zoning: MR1	Lot Area: 7,760 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 54-56 Indiana Terrace consists of a 7,760 square foot lot improved with a two-family dwelling currently under construction. Retaining walls are proposed along the sides and rear of the dwelling, with some portions exceeding four feet in height within the side setback, requiring a special permit. Additionally, special permit relief is required to exceed FAR.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared G. Michael Peirce, attorney, dated 12/29/2023
- Site Plan of Land, signed and stamped by Peter J. Nolan, surveyor, and Edmond Spruhan, engineer, dated 3/14/2022, revised 10/26/2022, 1/26/2023, 8/29/2023, 9/12/2023, 10/13/2023
- Permitted FAR worksheet, signed and stamped by Richard A. Volkin, submitted 1/22/2024
- Proposed FAR worksheet, signed and stamped by Richard A. Volkin, submitted 12/29/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct retaining walls at the sides and rear of the property. The walls reach a maximum height of 7.4 feet within the northern required side setback of 7.5 feet per section 3.2.3. Per section 5.4.2.B, a special permit is required for retaining walls exceeding four feet within a setback.
2. The petitioner has begun construction on the dwelling with a by-right building permit. The permit utilized the 0.02 FAR bonus by maintaining post-1953 setbacks, allowing for an FAR of .54 where .52 is the maximum allowed per sections 3.2.3 and 3.2.10. The construction of the retaining walls alters the average grade, increasing the square footage below the first story counting towards FAR. This increases the FAR to .57, requiring a special permit.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.4.2.B	Request to allow a retaining wall exceeding four feet within the side setback	S.P. per §7.3.3
§3.2.3 §3.2.10	Request to exceed FAR	S.P. per §7.3.3



City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: August 24, 2024

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Joseph Iadonisi, Senior Planner

SUBJECT: **Working Session Memo for Petition #160-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow retaining walls along the sides and rear of the dwelling exceeding four feet in height within the side setbacks and to exceed Floor Area Ratio at 54-56 Indiana Terrace, Ward 5, Newton Upper Falls, on land known as Section 51 Block 40 Lot 06, containing approximately 7,760 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec. 7.3.3, 5.4.2.B, 3.2.3, 3.2.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Originally scheduled for April 2, 2024, the petitioners for 54-56 Indiana Terrace, applied for and were granted a continuance. This memorandum is intended to provide information in advance of the scheduled public hearing for 54-56 Indiana Terrace on August 27, 2024 and supplement and provide updates for the previously published planning memorandum.



54-56 Indiana Terrace

Background

The subject property applied for and obtained historic approval for demolition of the existing dwelling in January 2022. The petitioners then obtained Building Permit 22-5979 on April 29, 2023 to construct two single-family attached dwellings at 54-56 Indiana Terrace. During the course of construction, the petitioners built retaining walls in excess of four feet within the side setbacks and with changes to the grade, exceeded by-right Floor Area Ratio (FAR). On February 26, 2024, the petitioners applied for a Special Permit for the retaining walls and FAR. The architectural plans and site plan submitted as a part of the Special Permit application in advance of the scheduled April 2, 2024 Public Hearing did not match what had been constructed on site. The petitioners applied for a continuance and have submitted revised architectural plans, a revised FAR worksheet, and a revised site plan in advance of the August 27, 2024 Public Hearing.

Project Updates

The materials provided for the August 27, 2024 Land Use Committee Public Hearing on 54-56 Indiana Terrace differ from those provided for the April 2, 2024 Public Hearing in four regards: increased Floor Area Ratio, additions to the front and rear façades, changes to the layout of retaining walls, and changes to the height.

- Floor Area Ratio: the petitioners have increased their gross floor area calculation by 101 square feet resulting in a total of 4,522 square feet and an increase of the Floor Area Ratio from 0.57 to 0.58. This additional square footage comes from bringing the front façade of the second floor forward, adding foot in length to the second floor. On the first floor, the petitioners have added additional space to the center by the main entrances by bringing the first floor family rooms forward eight inches and adding bays where the double-windows are located.
- Changes to the rear and front facades: in addition to changes to the new bays and bringing the front façade and entrances forward, the petitioners have replaced the sloped overhang between the first and second floor on the front façade with a balcony. The last of the changes to the façade of the building are the changes to the second floor front façade, which had previously had two gables that extended from the bottom of the second floor to the roofline. Instead, the petitioners shortened those gables, having them begin at the top of the second floor and extend to the roofline. Two more gables were added towards the side facades with a door and single-window on each side replacing where there have been double-windows.
- Retaining walls: the arrangement of retaining walls changed as the petitioners diverted part of the retaining wall along the right lot line to avoid a tree and added a section of one-foot high retaining wall connecting the left lot line to the long section of retaining wall running parallel to it. Along the left/southern side of the lot, the middle section of retaining walls juts out slightly to the left and forms a corner from where it had previously stayed continuous with the lowest section of retaining wall. This new jut brings the maximum height of the retaining wall to 8.6 feet where the previous

maximum height had been 7.4 feet on the right/northern lot line. The overall grading of the site and the height of the retaining wall remain generally consistent with the previously submitted plans and are within a foot of the originally submitted site plan. The resulting average grade is six inches lower than the initial plans.

- **Building Height:** changes to the overall height of the building are minor with a decrease from 34.26 feet to 34.1 feet despite the lower grade as the overall height of the building from the first finished floor to the roof peak is decreased by one foot.

Analysis of Changes

The alterations to the previously submitted materials do not significantly change Planning's analysis from the previous Land Use Committee Memorandum. Of the changes to the plans for the site, the additions to the front and rear façades and changes to the height of the building do not require new or a greater degree of relief than the plans provided for the originally scheduled April 2, 2024 Public Hearing. However, the newly submitted plans include higher retaining walls in one location and an increase in FAR, both of which require an additional degree of relief.

The increase in FAR does require additional relief as the FAR increases to 0.58 where 0.54 is the maximum allowed by right, however this is an increase of just 0.01. Due to the grading of the site, the basement contributes a significant amount of gross floor area while the building maintains the appearance of a two-story dwelling from the street. As undersized lots and dwellings that are larger than the constructed dwelling at 54-56 Indiana Terrace are common in the surrounding Upper Falls Village, the relief for FAR will not result in a structure that is significantly larger than those in the neighborhood.

Changing the maximum height of the retaining walls from 7.4 feet to 8.6 feet also increases the degree of importance that they were constructed properly or are fixed. At the location where the maximum height was measured, the top of the wall height increased by 1.1 feet and the bottom of the wall height decreased by 0.6 feet, adding 1.6 feet to a section of the retaining wall that had previously been seven feet. Given the additional height, Planning does reiterate the emphasis from the previous Land Use Committee Memorandum for the petitioner to demonstrate the structural soundness and compliance with the Stormwater Ordinance for the retaining walls. The unimproved grade of the site remains very challenging, and the additional height will be located to the rear of the property and largely unnoticeable with landscaping screening the walls.

Updated Land Use Committee Memorandum

The following serves as an update to the original memorandum for the April 2, 2024 Land Use Committee. For the original memorandum, see Attachment B.

I. Project Description

Use –single-family attached

Zone – Multi-Residence 1

Lot size – 9,478 square feet

Existing Nonconformities – lot size

Proposal- The petitioner is seeking relief for the completed retaining walls, reaching a maximum height of 8.6 feet. The altered grade created by the retaining walls and addition of 101 square feet of gross floor area added to the first and second floors after the initial building permit application have also resulted in a Floor Area Ratio of 0.58 where 0.54 is the maximum.

Analysis

54-56 Indiana Terrace features a challenging grade, with a drop of approximately 20 feet over the 80 feet from the front to the rear lot line. With an approximately 25-degree average slope, controlling erosion and stormwater would be a challenge for any proposed design on the site. Properly constructed retaining walls may assist in protecting the site and abutting properties. Additionally, retaining walls may be desirable to create a level area for practical and recreational purposes for the residents. However, the maximum retaining wall height of 8.6 feet is significant and requires particular attention to drainage and construction to ensure erosion and stormwater are properly managed by the retaining walls. As noted in Attachment C, a drainage report and soil logs are required to ensure stormwater and erosion control. Further review by the Inspectional Services Department will ensure that the walls are constructed properly. Due to the natural slope of the neighborhood, retaining walls are common, including those on the site of the abutters to the right and rear. However, the height of these retaining walls is significant and necessitates that the petitioners work closely with the Inspectional Services Department to ensure they provide all proper documentation and remedy any deficiencies with the retaining walls.

The proposed relief for FAR is relatively minor and will not result in a building that is greatly beyond the size and massing of the structures in the neighborhood. Given the existing grade, the basement is exposed and provides 743 square feet of gross floor area, or 0.10, towards the FAR where the project exceeds allowed FAR by 0.06. Further, because of the existing grade the dwelling appears only as a two-story from the front street level. The retaining walls and work to level parts of the site has not been conducted as to create a structure that appears any larger than the average home in the surrounding area.

II. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§5.4.2.B	Request to allow a retaining wall exceeding four feet within the side setback	S.P. per §7.3.3
§3.2.3 §3.2.10	Request to exceed FAR	S.P. per §7.3.3

For more details regarding the zoning analysis please refer to **Attachment A**.

III. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of retaining walls exceeding four feet. (§5.4.2.C.1)
- The retaining walls exceeding four feet will not adversely impact adjacent property, the neighborhood, or the public. (§5.4.2.C.2)
- The retaining walls exceeding four feet is the minimum structure necessary to allow a subject property to be reasonably utilized. (§5.4.2.C.3)
- The proposed increase in nonconforming FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.3, §3.1.9)

IV. Project Proposal and Site Characteristics

The above “Project Updates” section covers all changes to the Project Proposal and Site Characteristics from the original Land Use Committee Memorandum, available as Attachment B.

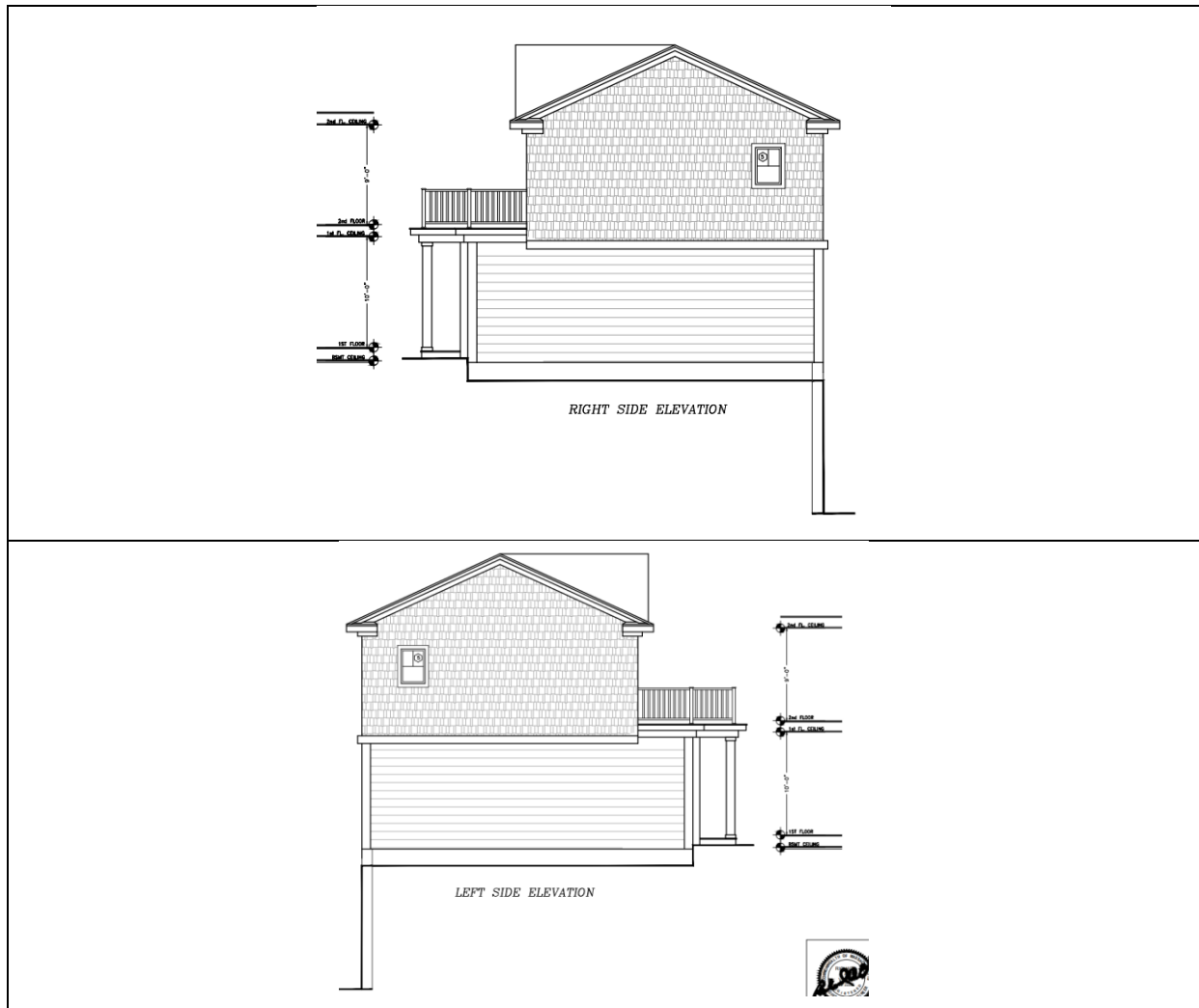
Elevations



FRONT ELEVATION



REAR ELEVATION



V. Interdepartmental Review:

The Department of Public Works Engineering Department reviewed this project and their memorandum is available as Attachment C. The Newton Historical Commission determined the property was historically significant and decided not to impose demolition delay per Attachment D as the garage and front façade had been substantially altered. Further review by the Engineering Department and Inspectional Services Department will occur as a part of the Building Permit process.

VI. Petitioner's Responsibilities

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** April 2024 Land Use Committee Memorandum
- Attachment C:** Engineering Memorandum
- Attachment D:** Newton Historical Commission Decision
- Attachment E:** DRAFT Council Order



City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: March 29, 2024*

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Joseph Iadonisi, Senior Planner

SUBJECT: **Petition #160-24**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow retaining walls along the sides and rear of the dwelling exceeding four feet in height within the side setbacks at 54-56 Indiana Terrace, Ward 5, Newton Upper Falls, on land known as Section 51 Block 40 Lot 06, containing approximately 7,760 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec. 7.3.3, 5.4.2.B, 3.2.3, 3.2.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



54-56 Indiana Terrace

*As of March 28, 2024, in response to comment from the Planning Department that the submitted architectural plans did not match the what the Planning Department observed on site, the petitioners indicated their intent to request a continuance until they could produce updated architectural plans. This memorandum reflects Planning's reviews of the proposed project based on the plans submitted prior to March 28, 2024. Planning will publish a working session memorandum covering any updates to the forthcoming memorandum that come with new architectural plans.

I. Project Description

Use – two-family dwelling

Zone – Multi-Residence 1 (MR1)

Lot size – 7,760 square feet

Existing Nonconformities - none.

Proposal- The petitioner is seeking to add retaining walls to the rear and sides of the property. These retaining walls reach a maximum height of 7.4 feet and are within the northern or right side setback. The construction of these retaining walls will also change the grade of the dwelling, making the lower-level area count towards the Floor Area Ratio (FAR), exceeding the maximum FAR for the MR1 zone.

Analysis

The requested relief for the construction of additional retaining walls entails no work on the dwelling itself according to the submitted site plan. The increase in the FAR for the dwelling is not accompanied by any increase in building height or size and therefore will not result in visual impacts to neighboring properties. The proposed retaining walls in excess of four feet along the right or northern lot line are located where there is a significant slope, dropping approximately 20 feet in elevation over the length of the lot line which is about 80 feet long. These retaining walls likely will create more level space for the residents of the dwelling. Prior to obtaining a building permit, the petitioner must provide the Engineering Department with all required documents to demonstrate that the walls are structurally sound and comply with the City’s Stormwater Ordinance.

II. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§5.4.2.B	Request to allow a retaining wall exceeding four feet within the side setback	S.P. per §7.3.3
§3.2.3 §3.2.10	Request to exceed FAR	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A**.

III. Criteria for Consideration per §7.8.2.C.2:

- The site is an appropriate location for the proposed series of retaining walls exceeding four feet in the side setback and resulting in a Floor Area Ratio greater than allowed by right. (§7.3.3.C.1)
- The proposed construction of a series of retaining walls exceeding four feet in the side setback and resulting in a Floor Area Ratio greater than allowed by right as developed

and operated will not adversely affect the neighborhood. (§7.3.3.C.2)

- The proposed construction of a series of retaining walls exceeding four feet in the side setback and resulting in a Floor Area Ratio greater than allowed by right will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved for the proposed construction of a series of retaining walls exceeding four feet in the side setback and resulting in a Floor Area Ratio greater than allowed by right. (§7.3.3.C.4)

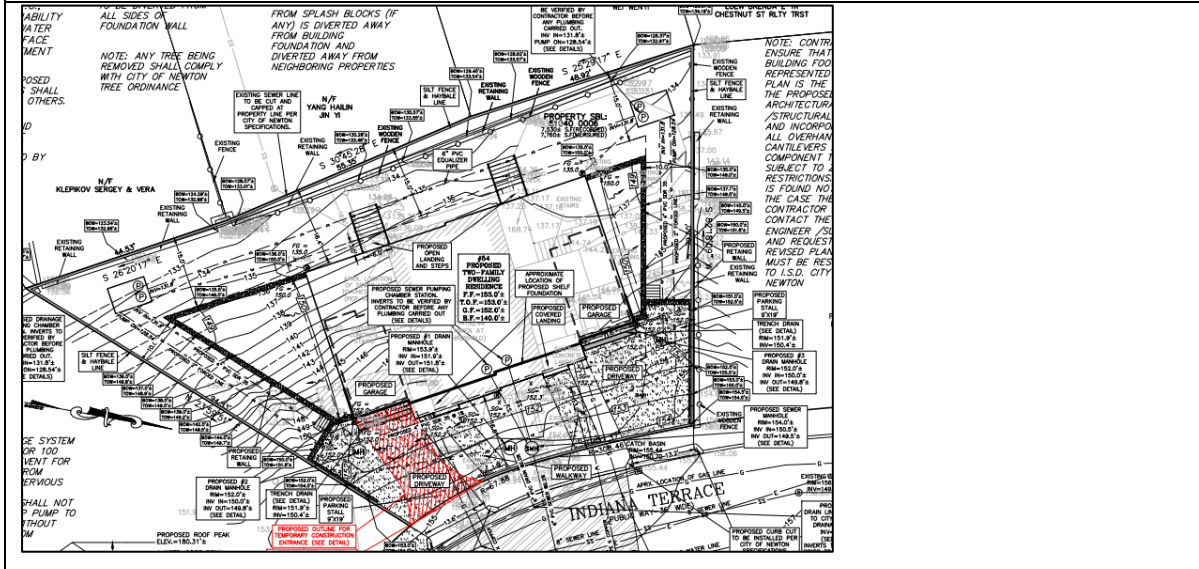
IV. Project Proposal and Site Characteristics

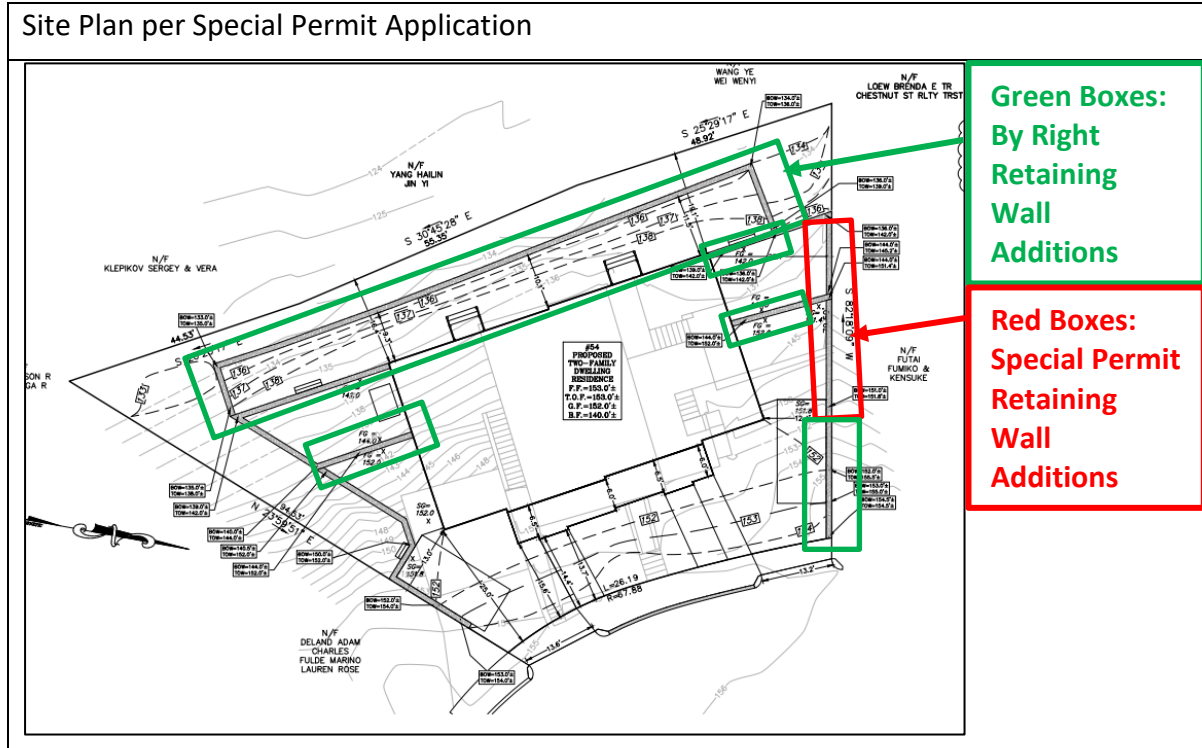
The proposed project, according to the submitted plans, does not entail any work on the dwelling and only consists of the construction of retaining walls. The petitioner has a separate building permit for the by right construction of a two-family dwelling and retaining walls outside of the setbacks. The only work proposed for this project is the addition of retaining walls in excess of four feet in the right side setback. The retaining walls requiring relief begin at the northeastern front corner of the lot and continue along the right or northern lot line for about 60 feet. There are two retaining walls in total along the right lot line, the first section beginning at the front right corner or northeast corner of the lot and continuing about 45 feet before turning left towards the dwelling, parallel to and about midway between the front and rear facades. This first section requires relief for the entirety of the wall that is along the lot line and for the first 7.5 feet of the wall that is within the setback as it reaches a height of 7.4 feet at the corner. The second section of the wall continues along the lot line from the corner of the first wall and continues along the lot line for about 20 feet before creating a corner and continuing about 30 feet to connect to the rear right or northwestern corner of the dwelling. This second section requires relief as the corner and 7.5 feet of the wall connecting to the corner of the dwelling within the setback is six feet in height.

The construction of these retaining walls also alters the average grade, increasing the FAR to 0.57. Under the previous building permit, the petitioner proposed a 0.54 FAR, which is the maximum for MR1 with the allotted 0.02 FAR bonus per Section 3.2.3 of the Zoning Ordinance

The site is significantly graded, with a difference of about 22 feet between the highest and lowest elevations on the lot. The property slopes about 20 feet from the front lot line to the rear lot line, a distance of about 80 feet, resulting in a grade of about 25%. With the proposed series of retaining walls, the petitioner is creating three levels that will be roughly flat, starting with a level from the frontage to the midway point of the house on either side, one level from the midway point of the house to the rear corners of the house, and one level to the rear of the house.

Site Plan per Existing Building Permit





V. Interdepartmental Review

Review from the Engineering Department is required prior to obtaining a building permit.

VI. Petitioner's Responsibilities

The petition is complete.

ATTACHMENTS:

- ATTACHMENT A:** Zoning Review Memorandum
- ATTACHMENT B:** DRAFT Council Order

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Andrea Kelly, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 54 Indiana Terrace

Date: September 18, 2024

CC: Lou Taverna, PE City Engineer
Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Alyssa Sandoval, Deputy Chief Planner

In reference to the above site, I have the following comments for a plan entitled:

*54 INDIANA TERRACE,
NEWTON,
MASSACHUSETTS*

REVISION BLOCK	
DESCRIPTION	DATE
STAIRS ADDED TO AS-BUILT PLAN	06/3/24
PLAN REVISED PER COMMENTS	07/19/24

Prepared by: Spruhan Engineering PC

Executive Summary:

A site visit was performed on April 9th and again on Sept 17th and discovered several segmental block retaining walls under construction. Retaining walls are categorized as vertical construction and under the jurisdiction of the Inspectional Services Department (ISD) and

requires design by a Registered Professional Engineer. Richard Volkin, PE of RAV Engineering submitted the following letter:

RAV & ASSOCIATES, INC.

21 HIGHLAND AVENUE
NEEDHAM, MA 02494

TEL: (781) 449-8200

E-MAIL: RICHARD@RAVASSOC.COM

May 20, 2024

City of Newton
Inspectional Services Department
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459
Attn: Anthony Ciccariello, Commissioner

EXTERNAL WALL ELEVATIONS
Permit Number BP-22-5979
54 Indiana Terrace, Newton, Massachusetts

I hereby certify that I, Richard A. Volkin, a Commonwealth of Massachusetts Registered Professional Engineer, Number 22282 reviewed the foundation plan for the two-family house at 54 Indiana Terrace, Newton, Massachusetts

I hereby certify that I reviewed and measured heights of walls external of the foundation residence at 54 Indiana Terrace, Newton, Massachusetts on May 20, 2024...

Right side of house: midpoint of foundation wall, continued to property line, avg height 8 FT.

Right side of house, lower corner continuation of foundation wall to property line 6 FT.

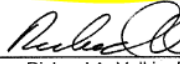

Rear of property: Approximately 8-10 FT. from back property line, approximately 6 FT. to 2.5 FT.

Left side of house: Lower corner configuration of foundation wall to left property line, avg. 9 Ft. to 8.6 FT

Midpoint of left foundation wall to property line., average 8.5 FT

The interlocking walls were imbedded two (2) blocks with the use of geo-cloth at the designed layers. With all the rain since construction, there would be wall movement and shifting on the saturated deep slopes. No evidence of wall movement was evident.

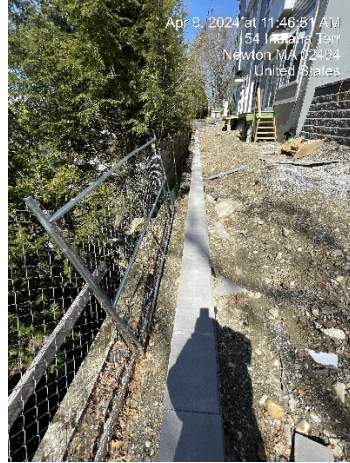
May 20, 2024
Date


Richard A. Volkin, P.E.


As retaining walls fall under the jurisdiction of Inspectional Service Department (ISD) they will have to determine if this is sufficient as an affidavit of retaining wall design and stability.

The site did not have any siltation controls in place and the exposed soil should be covered with some sort of silt control as it should not be exposed for prolonged periods.





Walls over 3 feet must have a safety fence along its entire length.



Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters. The CMP must also address surface runoff during construction so that it does not impact abutters nor City streets & the stormwater system. Temporary detention basins, check dams or diversion swales should be considered.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities was submitted for review. I have the following comments that need attention:

1.

The site has no catch basins but does have a trench drain so please update this doc.

 - **Catch Basin**
Routine inspection and cleaning of catch basins. Catch basins should be cleaned twice a year and ensure that they are no more than 50 percent full at any time. The catch basin will be inspected within the regulated area within two (2) years of the effective date of the permit to evaluate sediment or debris accumulation and establish optimal inspection and maintenance frequencies to meet the "50 percent" goal. Catch basins cleaned or inspected log is included in the Inspection report.
2.

Alarm system is required not optional. please provide proof of alarm installations for both drain pump stations.

 - **Alarm system:** if installed, check that the alarm operates if the pump pit level rises above normal.
 - **Backups or overflows** which may show recent failures: paper scraps outside the pumping chamber, stains, water lines, odors, occupant report.

- **Pump opening cover:** For safety, the sump pumping basin must have a secure, child-proof cover in place; in some installations the cover must also be gas-tight.
 - **Pumping chamber: Look for damaged ejector/grinder pump reservoir or basin:** Concrete container should be intact, with no cracks, breaks, improper holes, or other damage.
3. An access manhole cover must be brought to finished grade and exposed for easy access

- **FINAL IMPORTANT NOTE 1: THIS OPERATION AND MAINTENANCE PLAN MUST BE RECORDED AT THE APPROPRIATE REGISTRY OF DEEDS. PROOF OF SUCH RECORDING MUST BE PROVIDED TO BOTH THE NEWTON CONSERVATION COMMISSION AS WELL AS THE ENGINEERING OFFICE AT THE CITY HALL.**
 - **FINAL IMPORTANT NOTE 2: PROVISIONS MUST EXIST ALLOWING THE CONCOM OR ITS DESIGNEE TO ENTER THE PROPERTY AT REASONABLE TIMES AND IN A REASONABLE MANNER FOR THE PURPOSE OF INSPECTION.**
4. Indiana Terrace LLC
PROPERTY C
- There is no Con Com jurisdiction, annual report shall be submitted to the DPW attention of the Drain Division.

SYSTEM MAINTENANCE:

5. Add annual alarm system testing for both pump stations:

Once the O&M is revised & resubmitted for approval the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds prior to applying for an Occupancy Permit. A copy of the recording instrument shall be submitted to the Engineering Division.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*

8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Andrea Kelly, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 54 Indiana Terrace

Date: April 25, 2024

CC: Lou Taverna, PE City Engineer
Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Alyssa Sandoval, Deputy Chief Planner

In reference to the above site, I have the following comments for a plan entitled:

*54 INDIANA TERRACE,
NEWTON,
MASSACHUSETTS*

REVISION BLOCK	
DESCRIPTION	DATE
REVISED AS PER CITY COMMENTS	10/26/22
REVISED AS PER CITY COMMENTS	01/26/23
REVISED AS PER CLIENT (FOR SPECIAL PERMIT)	08/29/23
REVISED AS PER CLIENT (FOR SPECIAL PERMIT)	09/12/23
REVISED AS PER CLIENT (FOR SPECIAL PERMIT)	10/13/23

Prepared by: Spruhan Engineering PC

Executive Summary:

A site visit was performed on April 9th and discovered several segmental block retaining walls under construction. Retaining walls are categorized as vertical construction and under the

jurisdiction of the Inspectional Services Department (ISD) and requires design by a Registered Professional Engineer. The design must be evaluated for several scenarios against failure that include: overturning, settlement, shifting, and drainage behind the wall. These scenarios need detailed calculations, construction specifications, and clear details for footing design, reinforcement, backfill and proper drainage. As the walls are constructed the engineering of record shall make timely inspections and sign and seal an affidavit attesting to the fact that the wall was constructed as designed and is safe, this must be submitted to ISD.

The site did not have any siltation controls in place and the exposed soil should be covered with some sort of silt control as it should not be exposed for prolonged periods.





Walls over 3 feet must have a safety fence along its entire length.



Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters. The CMP must also address surface runoff during construction so that it does not impact abutters nor City streets & the stormwater system. Temporary detention basins, check dams or diversion swales should be considered.

2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. A Pre & Post Construction drainage analysis is required. All stormwater runoff from the site shall be captured on-site and infiltrated in accordance with the Massachusetts Department of Environmental Protection standards and the City of Newton Department of Public Works policy. This policy states that stormwater runoff shall be retained from the 100-year storm event of 8.78-inches over a 24-hour period and shall be infiltrated to the maximum practicable extent. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins. On-site soil evaluation is required to determine the seasonal high groundwater elevation, soil types and to identify any and all unsuitable soils (such as ledge, clay, peat, fill and others). On site soil testing that will include test pit(s) within 25 -feet of each proposed system and percolation test(s) must be schedule and witnessed by a representative of the Engineering Division. Soil logs shall be submitted on the site plan or drainage report and shall be certified by a Massachusetts Licensed Soil Evaluator and/or Professional Civil Engineer.
2. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. Annual inspection logs shall be submitted to the DPW Engineering Division as required to maintain certification of compliance under Newton's NPDES MS4 Permit.
4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
2. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
3. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
4. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.

5. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

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If you have any questions or concerns, please feel free to contact me at 617-796-1023.



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

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(617) 796-1120
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(617) 796-1142
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(617) 796-1089
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Barney S. Heath
Director

Newton Historical Commission Demolition Review Decision

Date: 1/5/2022 Zoning & Dev. Review Project# 21120042

Address of structure: 54 Indiana Terrace

Type of building : House and Detached Garage

If partial demolition, feature to be demolished is _____

The building or structure:

is _____ is not in a National Register historic district or in an area eligible for listing

is _____ is not individually listed on the National Register or individually eligible for listing.

is _____ is not importantly associated with historic person(s), events, or architectural or social history

is is not _____ historically or architecturally important for period, style, architect, builder, or context.

is _____ is not in a local historic district not visible from a public way

is _____ **NOT HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is **HISTORICALLY SIGNIFICANT** as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

_____ **APPROVES** the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

_____ **DOES NOT APPROVE** and the project requires
Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is **NOT PREFERABLY PRESERVED**

Demolition is not delayed and no further review is required.

is _____ **PREFERABLY PRESERVED – (SEE BELOW).**

Delay of Demolition:

_____ is in effect until _____

_____ has been waived - see attached for conditions

Determination made by: Vanni Briz, NHC

Owner of Record:

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

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 for retaining walls over four feet and a Floor Area Ratio exceeding the maximum allowed for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of retaining walls exceeding four feet as there is an approximately twenty-foot drop in elevation over the approximately 80 feet from the front to the rear lot lines. (§5.4.2.C.1)
2. The retaining walls exceeding four feet will not adversely impact adjacent property, the neighborhood, or the public as properly designed and constructed retaining walls can prevent any impacts of erosion or stormwater to adjacent properties. (§5.4.2.C.2)
3. The retaining walls exceeding four feet is the minimum structure necessary to allow a subject property to be reasonably utilized as there was insufficient level area present on the lot to support a building prior to the installation of retaining walls. (§5.4.2.C.3)
4. The proposed increase in nonconforming FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as the dwelling is in a neighborhood where small lots are present and the dwelling will appear as a two-story dwelling from the street. (§3.1.3, §3.1.9)

PETITION NUMBER: #160-24

PETITIONER: Indiana Terrace LLC

LOCATION: 54-56 Indiana Terrace, Ward 5, Newton Upper Falls, on land known as Section 51 Block 40 Lot 06, containing approximately 7,760 sq. ft. of land

OWNER: Indiana Terrace LLC

ADDRESS OF OWNER: 21 Princeton Rd.
Brookline, MA 02467

TO BE USED FOR: Two-family dwelling

RELIEF GRANTED: Special Permit per §7.3.3 for a series of retaining walls exceeding four feet (§5.4.2.B) and to exceed maximum Floor Area Ratio (§3.2.3, §3.2.9)

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 as stamped and signed by Peter Nolan, Professional Land Surveyor, and Edmond Spruhan, Professional Engineer, as revised Jul. 19, 2024.
 - b. Architectural plans signed and stamped by Richard Volkin, Professional Engineer, dated April 17, 2024 consisting of the following sheet:
 - i. Elevations (showing front and sides), A-2
 - ii. Elevations (showing rear), A-3
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. 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.
 - c. Obtained approval from the Planning Department for a landscaping plan prepared by a registered Landscape Architect for approval by the Director of Planning.

4. 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.
 - c. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.

5. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.