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#257-24

1188 Chestnut Street

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 amend Special Permit #176-19 to further extend a nonconforming front setback, to allow additional parking in the front setback, to exceed maximum floor area ratio (FAR), and to allow a retaining wall or series of retaining walls with over four feet in height, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chair, Andrea Kelley:

1. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing setback is to the neighborhood because the proposed garage is set farther back from the street than the existing garage, improving the prior existing condition. (§3.1.3; §7.8.2.C.2)
2. Literal compliance with the requirement that only one parking stall be located within the front setback is impracticable due to the steep grade of the lot. (§3.1.9; §7.3.3)
3. The site is an appropriate location for the proposed amendment to Council Order #176-19 and additions which require relief because the garage is set further back from the front property line than the previous garage, appears as a detached structure due to the subterranean connection, thus breaking up the massing, and blends with the new single-family home. (7.3.3.C.1)
4. The proposed garage will not create a nuisance or serious hazard to vehicles or pedestrians as it is set back from the street compared to the existing garage. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. The increase in FAR is not substantially more detrimental than the existing structure is to the neighborhood and only represents a small increase in the allowable FAR. (§3.1.3, §3.1.9)

7. The lot presents challenging topography with an existing steep grade of the site, which limits the use of the property, such that it could not be improved without the implementation of the retaining walls over four feet in height. (§5.4.2.B)
8. The proposed retaining walls over four feet in height will not adversely impact adjacent property, the neighborhood, or the public because of the location of the property in a hilly area along Chestnut Street where the use of retaining walls is common along this street. (§5.4.2.B)
9. The proposed retaining walls over four feet in height will allow the property to be reasonably utilized because of the steep grade of the existing site. The retaining walls over four feet in height will allow for outdoor space to be utilized as well as walkway areas to accommodate access to the house and rear yard. (§5.4.2.B)

The City Council DENIES the requested relief to allow an oversized garage over 700 square feet due to the tandem parking situation and related safety concerns with three vehicles entering and exiting the garage with a nonconforming setback and limited visibility on Chestnut Street.

PETITION NUMBER: #257-24

PETITIONER: Patricia and Carlos Ferreira

LOCATION: 1188 Chestnut Street, Ward 5, on land known as Section 51, Block 40, Lot 22, containing approximately 8,807 square feet of land

OWNER: LUNA Homes LLC

ADDRESS OF OWNER: 142 Fisher Street
Westborough, MA 01581

TO BE USED FOR: Single-Family Dwelling and Garage

RELIEF GRANTED: Special Permit per §7.3.3 to amend Special Permit #176-19 to further extend a nonconforming front setback; to allow a parking stall within the front setback (§3.1.3; §7.8.2.C.2); to exceed maximum FAR (§3.1.3; §3.1.9); and to allow a retaining wall or combination of walls with four feet or more in height (§5.4.2.B).

RELIEF DENIED: Relief denied to allow a garage in excess of 700 square feet (§3.4.4.E; §3.4.4.H.1)

ZONING: Multi Residence 1 district

The prior Special Permit/Site Plan Approval governing this property is #176-19. This Special Permit/Site Plan Approval amends, replaces, and supersedes #176-19. As such, #176-19 is null and void.

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. Proposed Site Plan, prepared by MP Design Consultants., signed and stamped by Todd P. Chapin, Professional Land Surveyor, dated June 3, 2024.
 - b. Architectural Plans, stamped by Carlos Fereira, Professional Engineer, dated January 17, 2022:
 - i. Proposed Garage and First Floor Plan, Sheet A-05 Except as modified with a floor plan of garage showing the area where vehicles may park/be stored as less than 700 square feet.
 - ii. Proposed South and East Elevations, Sheet A-07
 - iii. Proposed North and West Elevations, Sheet A-08
2. Prior to the issuance of any building permit, the petitioners shall provide a final site plan for review and approval by the Department of Planning and Development, Inspectional Services, and the Engineering Division of Public Works.
3. The petitioners shall maintain the plantings atop the retaining wall at the western boundary to groundcover only to maintain sight lines to the west. Additionally, the petitioners shall also maintain the lowest twelve feet of the mature tree at this location to maintain sight lines to the west, in accordance with the City of Newton Tree Manual.
4. 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 from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - c. The petitioner submits a garage floor plan showing the area where vehicles can park at less than 700 square feet with a physical separation from the remainder of the garage. Such separation must be approved by Inspectional Services.

5. 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 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, including the as built FAR.
 - 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 and Department of Engineering an affidavit from a Professional Engineer certifying that the walls over four feet in height were designed and constructed in accordance with the manufacturers design requirements and specifications.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.

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:


(SGD) CAROL MOORE
Clerk of the City Council
Acting