

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 specific site is an appropriate location for retaining walls exceeding four feet and Floor Area Ratio (FAR) exceeding by-right requirements. (§7.3.3.C.1)
2. The retaining walls exceeding four feet and Floor Area Ratio (FAR) exceeding by-right requirements as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the retaining walls exceeding four feet and FAR exceeding by-right requirements as the proposed project meets all requirements for parking and circulation. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved by the retaining walls exceeding four feet and FAR exceeding by-right requirements as sufficient parking stalls are provided on site. (§7.3.3.C.4)
5. 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)
6. 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)
7. 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)
8. The proposed increase in 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.