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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 6, 2020
Land Use Action Date:	December 29, 2020
City Council Action Date:	January 4, 2021
90- Day Expiration Date:	January 4, 2021

DATE: October 2, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #337-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing detached garage and create a new detached accessory structure for a home business and accessory apartment at **16 Hyde Street**, Ward 6, Newton Highlands, on land known as Section 52 Block 18 Lot 15, containing approximately 7,719 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 6.7.3.B.1.k.iv, 6.7.1.E.1, 6.7.1.E.5 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 conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



16 Hyde Street

EXECUTIVE SUMMARY

The property at 16 Hyde Street consists of a 7,719 square foot lot in a Single Residence 2 (SR2) zoning district currently improved with a 2½ story, 2,875 square foot single-family dwelling constructed in 1930 and a detached 342 square foot garage. The petitioner intends to replace the existing detached garage with a new 1½ story, 360 square foot detached accessory structure. The single-family dwelling would remain unchanged.

The petitioner intends to use the proposed accessory structure as both an accessory apartment and a home business. The proposed structure is of right; however, a special permit is required to establish an accessory apartment and a home business within the detached structure.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Single Residence 2 (SR2) district is an appropriate location for the proposed accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks (§7.3.3.C.1)
- The accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks, will adversely affect the neighborhood (§7.3.3.C.2)
- The accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks, will create a 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 (§7.3.3.C.4)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the north side of Hyde Street just east of Walnut Street. The neighborhood is predominantly occupied by single-family homes, except a three-family dwelling about 250 feet to the west on Walnut Street. The site and surrounding area are zoned Single Residence 2 (SR2) (**Attachments A & B**).

B. Site

The subject property consists of a 7,719 square foot lot currently improved with a 2 ½ story, 2,875 square foot single-family dwelling and a detached 342 square foot garage located in the rear right of the property.

The parcel features paved parking and circulation area and mature vegetation, including trees, shrubbery and lawn area. Access to the property is provided by a brick walkway to the front door and an asphalt driveway along the right (east) property line and an associated curb cut off Hyde Street that provides access to the garage.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family dwelling but with the addition of an accessory apartment and a home business within a detached structure.

B. Building and Site Design

As referenced above, no modifications to the existing 2½ story, 2,875 square foot single-family dwelling are contemplated. Rather, the petitioner intends to replace the existing 342 square foot detached garage with a new detached 360 square foot accessory structure in the same general area in the rear right of the property.

The proposed structure's height of 18.2 feet would be about 5 ½ feet taller than the existing garage, but below the maximum of 22 feet. The proposed replacement of the existing garage with the proposed accessory structure would add 18 square feet of floor area to the property. With this increase, the property's floor area ratio (FAR) would remain unchanged at 0.42, the maximum allowed by right.

The proposed accessory apartment within a detached structure that does not meet principal dwelling setbacks requires a special permit. The Planning Department notes that, as required per Sec. 6.7.1.E.3, the structure would feature clapboards and trim visually compatible with the principal dwelling and in keeping with the architectural integrity of the principal dwelling and the residential character of the neighborhood.

(As detailed in the attached zoning review, a detached accessory apartment's size must be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the habitable space of the principal dwelling, whichever is less. Since the principal dwelling has 2,875 square feet of habitable space, an apartment size of up to 1,150 square feet would be possible by special permit. At 360 square feet, the proposed apartment does not require a special permit for its size.

Per Section 6.7.1.E.5 a detached accessory apartment must meet the setback requirements of the principal dwelling. While at 5.25 feet both the proposed accessory structure's right side and rear setbacks would be more than the existing garage's 2.4 foot right and 2.7 foot rear setbacks, they would be less than the 7.5 and 15 feet that are, respectively, for a principal structure.

Regarding the proposed use of the accessory structure for a home business, (which requires a special permit) the petitioner has indicated that it would be a psychotherapy practice that would generally see one or two people (or a family unit) coming for an hour at a time. The business would operate in one half of the accessory structure and be comprised of approximately 180 square feet.

C. Parking and Circulation

As referenced above, the garage would be eliminated. No changes to the driveway are proposed. The home business would operate in approximately 180 square feet of the proposed detached structure, thus requiring one parking stall in addition to the two required for the dwelling. The three required stalls should be accommodated in the existing driveway given its length and configuration along the right (east) side of the parcel.

D. Landscaping and Screening

No landscaping plan was submitted as part of the petition. In the event the requested special permit is granted, the Planning Department suggests that the petitioner consider installing vegetative screening along the right and rear sides of the accessory structure given its proximity to abutting properties and the inclusion of windows on those sides.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit per §7.3.3 to:

- allow a home office in a detached structure (§6.7.3.B.1.k.iv)
- allow a detached accessory apartment (§6.7.1.E.1)
- allow a detached accessory apartment in a structure that does not meet principal setbacks (§6.7.1.E.5)

B. Engineering Review

Review of the proposal by the Engineering Division is not required at this time.

C. Historical Commission

The petitioner is currently working with Historic Commission to confirm the demolition of the existing garage. Planning Department staff expects to be able to report on this in advance of or at the public hearing.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time. The petitioner should be prepared to address and all issues raised above at the public hearing.

ATTACHMENTS:

- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum
Attachment D: DRAFT Board Order

ATTACHMENT A




Land Use

16 Hyde Street

*City of Newton,
Massachusetts*

Land Use

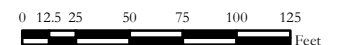
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use

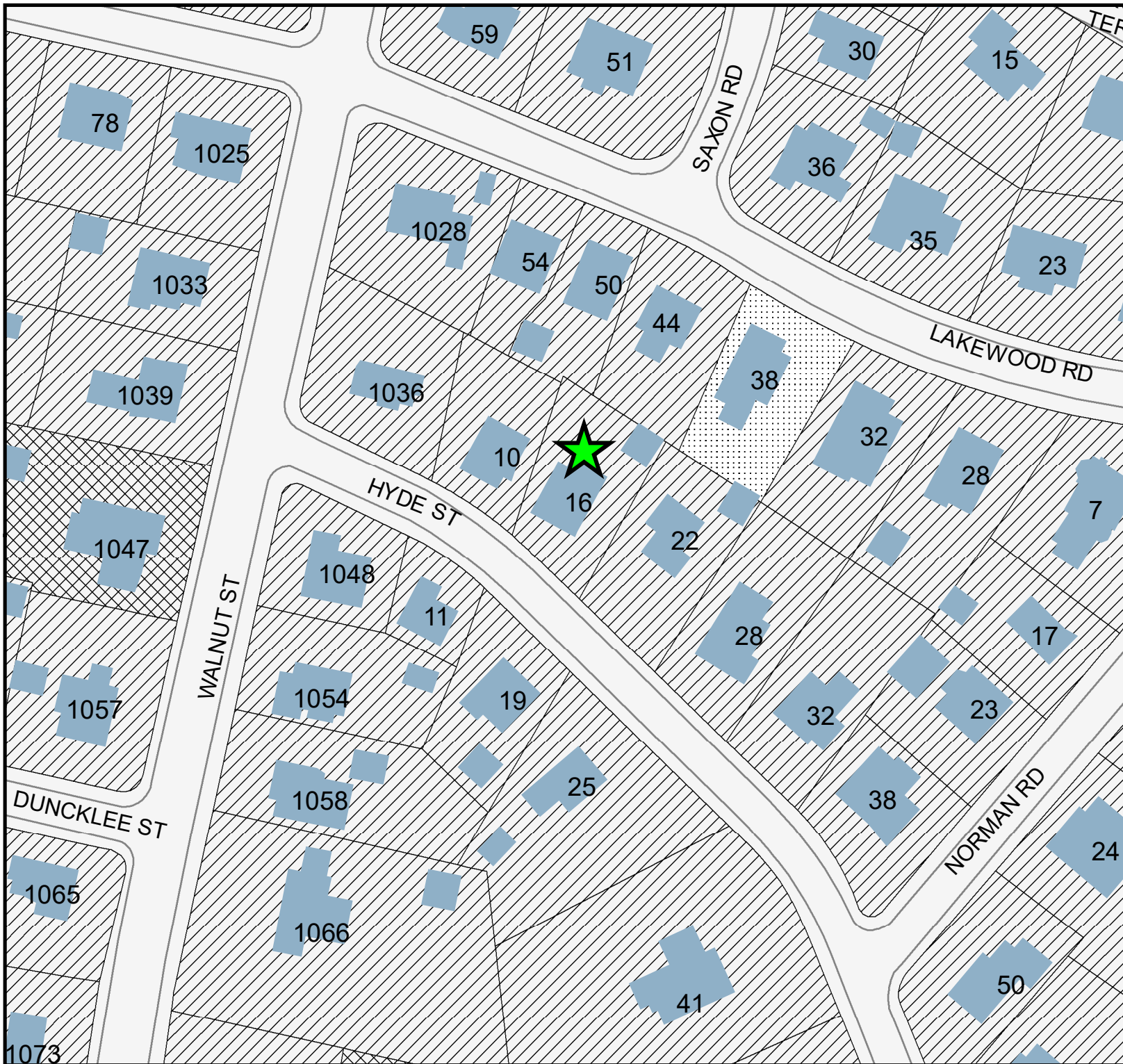


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: September 29, 2020





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 6, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Rachel Segall and James Hurley, Applicants
Izabella Synnott, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to allow a home business and an accessory apartment in a detached accessory structure**

Applicant: Rachel Segall & James Hurley	
Site: 16 Hyde Street	SBL: 52018 0015
Zoning: SR2	Lot Area: 7,719 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 16 Hyde Street consists of a 7,719 square foot lot currently improved with a single-family dwelling and a detached garage constructed in 1930. The petitioner intends to raze the existing detached garage to construct a new detached accessory structure. The petitioner intends to use the accessory structure for a home business office and an accessory apartment.

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

- Zoning Review Application, prepared by Rachel Segall, applicant, submitted 6/22/2020
- Plan showing existing and proposed conditions, signed and stamped by Dennis O'Brien, surveyor, dated 6/16/2020
- Architectural plans and elevations, dated 6/19/2020

ADMINISTRATIVE DETERMINATIONS:

1. Section 6.7.3.B.1.k.iv states that the City Council may grant a special permit to allow for the use of a detached accessory building for a home business. The Petitioner proposes to use the detached accessory structure as an office for her therapy practice, requiring a special permit.
2. The petitioner intends to construct a kitchen within the detached structure to enable its use as an accessory apartment. Per section 6.7.1.E.1 a special permit is required for a detached accessory apartment.
3. Per section 6.7.1.E.2, a detached accessory apartment may be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the habitable space of the principal dwelling, whichever is less. The principal dwelling has 2,875 square feet of habitable space, allowing an apartment up to 1,150 square feet. The proposed apartment is 360 square feet, requiring no relief.
4. Section 6.7.1.E.5 requires that a detached accessory apartment meet the setback requirements of the principal dwelling except by special permit. The proposed accessory apartment is 5.25 feet from the side and rear lot lines, requiring a special permit.

SR3 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	7,719 square feet	No change
Frontage	70 feet	47.37 feet	No change
Setbacks - Principal			
• Front	25 feet	19.8 feet	No change
• Side	7.5 feet	6.4 feet	No change
• Side	7.5 feet	16.5 feet	No change
• Rear	15 feet	32.7 feet	No change
Setbacks – Accessory			
• Front	25 feet	>50 feet	>50 feet
• Side	5 feet	2.4 feet	5.25 feet
• Rear	5 feet	2.7 feet	5.25 feet
Height (Accessory)	22 feet	12.72 feet	18.2 feet
Stories (Accessory)	1.5	1	1.5
FAR	.42	.42	.42bcd
Max Lot Coverage	30%	24.3%	24.5%
Min. Open Space	50%	53.9%	54.7%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§6.7.3.B.1.k.iv	Request to allow a home office in a detached structure	S.P. per §7.3.3
§6.7.1.E.1	Request to allow a detached accessory apartment	S.P. per §7.3.3
§6.7.1.E.5	Request to allow a detached accessory apartment in a structure that does not meet principal setbacks	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

1. Two (2) copies of the completed Special Permit Application (signed by property owner)
2. Filing Fee (see Special Permit Application)
3. Two (2) copies of the Zoning Review Memorandum
4. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
5. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
6. One (1) copy of any previous special permits or variances on the property (as applicable)
7. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
8. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a accessory apartment (§6.7.1.E.1) in a detached structure that does not meet principal setbacks (§6.7.1.E.5), and a home office in a said detached structure (§6.7.3.B.1.k.iv), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The site in a Single Residence 2 (SR2) district is an appropriate location for the proposed accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks because it is similar in size and location to a garage that it would replace and its proposed uses are not expected to generate significant noise, light or activity. (§7.3.3.C.1)
- 2) The proposed accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks, will not adversely affect the neighborhood because the structure and uses are accessory to the principal residential use on site. (§7.3.3.C.2)
- 3) The proposed accessory apartment and home business within a detached structure that does not meet principal dwelling setbacks, will not create a nuisance or serious hazard to vehicles or pedestrians because there are no changes to either the parking or circulation on site. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

PETITION NUMBER: #337-20

PETITIONERS: Rachel L. Segall and James A. Hurley

ADDRESS OF PETITIONERS: 16 Hyde Street

Newton, MA

LOCATION: 16 Hyde Street, on land known as Section 52, Block 18, Lot 15, containing approximately 7,719square feet of land

OWNERS: Rachel L. Segall and James A. Hurley

ADDRESS OF OWNERS: 16 Hyde Street
Newton, MA

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: Special permits per §7.3.3:

- allow a home office in a detached structure (§6.7.3.B.1.k.iv)
- allow a detached accessory apartment (§6.7.1.E.1)
- allow a detached accessory apartment in a structure that does not meet principal setbacks (§6.7.1.E.5)

ZONING: Single Residence 2 (SR2) district

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. A site plan entitled "Plan Showing Proposed Building, 16 Hyde Street, Newton, MA, Middlesex County," prepared by D. O'Brien Land Surveying," dated June 16, 2020, signed and stamped by Dennis O'Brien, Professional Land Surveyor
 - b. A set of architectural plans entitled "Segall/Hurley Accessory Apartment," dated June 19, 2020, consisting of the following sheets:
 - i. Site Plan/Floor Plan (A101)
 - ii. Elevations (A102)
 - c. A document entitled "Floor Area Ratio Worksheet, 6 Hyde Street, Newton, MA 02461," indicating a proposed "Total gross floor area" of 3,235 square feet and a proposed "FAR" (floor area ratio of 0.4190.
2. The Petitioner and the accessory apartment must at all times comply with all applicable rules for accessory apartments set forth in Section 6.7 of the Newton Zoning Ordinance. The accessory apartment cannot constitute its own unit within a condominium.

3. The accessory apartment must be held in common ownership with the principal dwelling unit in accordance with Section 6.7.C.1 of the Newton Zoning Ordinance.
4. The owner of the principal dwelling unit to which the accessory apartment is accessory to shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
5. The home business shall operate with all applicable rules for home businesses set forth in Section 6.7.B.1. of the Newton Zoning Ordinance.
6. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
7. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor