

#40-19  
46 Berwick Road

CITY OF NEWTON  
IN CITY COUNCIL

March 18, 2019

RECEIVED  
Newton City Clerk  
2019 MAR 20 PM 4:26  
David A. Clifton, Clerk  
Newton, MA 02459

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 further increase the nonconforming floor area ratio (FAR) from .50 to .65, where .44 is the maximum allowed as of right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase in the nonconforming floor area ratio from .50 to .65, where .44 is the maximum allowed by right is consistent with and not in derogation of the size, scale, or design of other structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood because the addition will have minimal visibility from the street, meets all setback requirements, and is not higher than the existing structure (§3.1.9 and §7.8.2.C.2).

PETITION NUMBER: #40-19

PETITIONER: Jonathan Flynn

LOCATION: 46 Berwick Rd., on land known as Section 52, Block 16, Lot 14, containing approximately 6,437 square feet of land

OWNER: Jonathan Flynn

ADDRESS OF OWNER: 46 Berwick Road  
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9, §7.8.2.C.2, to further increase the nonconforming FAR to construct a rear addition with an accessory apartment

ZONING: Single Residence 2 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. Topographic Site Plan, signed and stamped by Joseph A. Porter, Professional Land Surveyor, dated August 21, 2018; Revised: November 7, 2018, November 19, 2018.
  - b. Architectural Plans, signed and stamped by Peter Sachs, Registered Architect, consisting of the following nine (9) sheets:
    - i. Proposed Title Sheet, A-1
    - ii. Proposed Basement Floor Plan, A-2
    - iii. Proposed First Floor Plan, A-3
    - iv. Proposed Second Floor, A-4
    - v. Proposed Third Floor, A-5
    - vi. Proposed Front Elevation, A-6
    - vii. Proposed Right Elevation, A-7
    - viii. Proposed Rear Elevation, A-8
    - ix. Proposed Left Elevations, A-9
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. Prior to the issuance of any building permit for the Project, the petitioner shall provide a landscape plan for review and approval by the Director of Planning and Development.
4. 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.

5. 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 architect.
6. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
7. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
8. The petitioner shall install a 500 gallon tank for stormwater and shall use other reasonable good faith efforts to maintain stormwater on the site and not have any additional runoff.

Under Suspension of Rules  
Readings Waived and Approved  
23 yeas 0 nays 1 absent (Councilor Markiewicz)

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 March 20, 2019. 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) DAVID A. OLSON, City Clerk  
Clerk of the City Council



I, David A. Olson, 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 3/20/19 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk  
*acting* Clerk of the Council