

74 Waban Street
#312-16

CITY OF NEWTON

IN CITY COUNCIL

November 7, 2016

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 a SPECIAL PERMIT/SITE PLAN APPROVAL for the creation of an internal accessory apartment on the basement and first floor levels of a two-family dwelling and the construction of two parking stalls within five feet of a street, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The site is an appropriate location for an accessory apartment within a two-family dwelling in a Multi-Residence 1 (MR1) district as the existing structure can accommodate the accessory apartment without any increase to its size. (§6.7.1.D.1 and §7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within a two-family dwelling on a property that has sufficient interior and exterior capacity to accommodate the required additional parking stall. (§7.3.3.C.2) Furthermore, approval will allow a third unit that has existed on site to be brought into compliance with applicable regulations.
3. There will be no nuisance or serious hazard to vehicles or pedestrians, as the property's two driveways on Waban Street will be appropriate to allow for adequate sightlines for drivers and pedestrians passing, entering or leaving the property. (§7.3.3.C.3)
4. Access to the site is appropriate for the number of vehicles related to the residential use of the site. (§7.3.3.C.4)
5. The creation of an accessory apartment will help to diversify Newton's housing stock consistent with Newton's *Comprehensive Plan*.
6. Literal compliance with the requirement that the two required parking stalls not be located within five feet of a street (§5.1.7.A) is impracticable due to the size of the lot, and furthermore, granting an exception would be in the public interest as the spaces will provide off-street parking for the residents of the dwelling and preserve open space while not disrupting the adjacent approximately seven foot wide public sidewalk. (§5.1.13)

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Newton City Clerk
2016 NOV -9 PM 3:16
David A. Olson
Newton, MA 02459

PETITION NUMBER: #312-16

PETITIONER: Joe Roman

LOCATION: 74 Waban Street, on land known as Section 12, Block 5, Lot 54, containing approximately 12,115 square feet of land

OWNER: Brown Dog Properties, LLC

ADDRESS OF OWNER: 80 Reddington Street
Swampscott, MA 01907

TO BE USED FOR: Internal Accessory Apartment in Two-Family Dwelling
Two parking stalls within five feet of a street

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §6.7.1.D- Accessory Apartments Allowed by Special Permit
§5.1.7.A, §5.1.13- Parking stalls within five feet of a street

ZONING: Multi Residence 1 (MR-1) 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 plan entitled "74 Waban Street, Newton, Massachusetts, Existing Conditions Site Plan," prepared by Peter Nolan & Associates LLC, dated April 20, 2016.
 - b. A plan entitled "74 Waban Street, Newton, Massachusetts, Proposed Garage and Driveway Addition," dated July 18, 2016, prepared by Peter Nolan & Associates LLC, stamped and signed by Peter J. Nolan, Professional Land Surveyor.
 - c. A plan entitled "74 Waban Street, Newton, Massachusetts, Proposed Parking and Landscape," dated October 25, 2016, prepared by Peter Nolan & Associates LLC.
 - d. A set of architectural plans entitled "Proposed Renovation Residences at 74 Waban Park, Newton MA," prepared by Incite Architecture, signed and stamped by William R. Hubner:
 - i. Foundation and Basement Plans (Accessory Apartment), dated July 6, 2016 (Sheet A0);
 - ii. Floor Plans (Accessory Apartment) & Notes, dated July 6, 2016 (Sheet A1);
 - iii. Elevations & Sections, dated June 8, 2016 (Sheet A2);
 - iv. Elevations, dated June 8, 2016 (Sheet A3);
 - v. Sections & Notes, dated June 8, 2016 (Sheet A4);
 - vi. Framing Diagrams, dated June 8, 2016 (Sheet F1);
 - vii. Framing Diagrams, dated June 8, 2016 (Sheet F2).

2. The accessory apartment must be held in common ownership with one or both of the two principal units within the two-family dwelling in which it is located.
3. The owner of the principal unit which includes the accessory apartment shall occupy either said 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; these requirements shall be included in the master deed if the two-family dwelling is converted to two condominiums.
4. When ownership of the principal unit that includes the accessory apartment changes the new owner shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.
5. The height of any plantings and/or other screening within five feet of the adjacent existing sidewalk and located along the sides of the two parking stalls to be constructed pursuant to this Special Permit/Site Plan Approval shall not exceed three feet.
6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Submitted a final Landscape Plan to the Director of Planning and Development for review and approval;
 - d. 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 and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, and parking areas, as well as an acknowledgement that the driveway has been resurfaced subsequent to the date of this Order.
8. Notwithstanding the provisions of Condition #7c above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping and parking areas provided that the

Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping and parking areas.

Under Suspension of Rules

Readings Waived and Approved

22 yeas 0 nays 2 absent (Councilors Hess-Mahan and Sangiolo)

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 November 9, 2016. 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 11/9 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
Clerk of the Council