

CITY OF NEWTON

IN CITY COUNCIL

October 4, 2016

RECEIVED
CITY OF NEWTON
2016 OCT -6 PM 2:00
David A. Olson, Clerk
Newton, MA 02459

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 further extend the nonconforming two-family residential use and extend the nonconforming lot area per unit in an SR2 zoning district at 50-52 Rowe Street, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The extension of the nonconforming use and structure will not be substantially more detrimental than the existing nonconforming use is to the neighborhood as the expanded two-family dwelling and the proposed additional one-family dwelling, given their relatively modest sizes and large size of the property, will not be out of scale or character with the surrounding neighborhood. Furthermore, as designed the proposed improvements will result in the preservation of a historic structure, and the replacement of a large, paved area with a structure and associated landscape improvements where a large barn previously existed (§3.4.1 and 7.8.2.C.2).
2. The further extension of the nonconforming lot area per unit will not be substantially more detrimental than the existing nonconforming lot area per unit to the neighborhood as many of the surrounding properties are also nonconforming with respect to lot area per unit and the further reduced lot area per unit will remain in keeping with the neighborhood average (§3.1.3 and §7.8.2.C.2).
3. The site is an appropriate location for the proposed expanded structure and the proposed additional one-family dwelling as the property is a large lot and the proposed structures will conform with current Floor Area Ratio (FAR), height, lot coverage and open space requirements and preserve the existing structure (§7.3.3.C.1).
4. The proposed use and structures as developed and operated will not adversely affect the neighborhood as they will be similar to and consistent with those already commonly present in the neighborhood (§7.3.3.C.2).
5. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).

6. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #217-16

PETITIONER: New Newton LLC / Daniel Szeto

LOCATION: 50 Rowe Street, Section 44, Block 23, Lot 6, containing approximately 19,321 square feet of land

OWNER: New Newton, LLC

ADDRESS OF OWNER: 2193 Commonwealth Avenue
Brighton, MA 02135

TO BE USED FOR: One (2) two-family and one (1) one-family residences

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.4 and §7.8.2.C.2 to further extend a nonconforming two-family residential use in a Single Residence 3 (SR-3) District

§3.1.3 and §7.8.2.C.2 to further extend nonconforming lot area per unit

ZONING: Single Residence 3 (SR-3) 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 "Area Plan, Newton Massachusetts at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
 - b. A plan entitled "Zoning Plan, Newton Massachusetts, Showing Existing Conditions at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
 - c. A plan entitled "Zoning Plan, Newton Massachusetts, Showing Proposed Conditions at #50 Rowe Street," dated September 23, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;

- d. A plan entitled "Topographic Site Plan, Newton Massachusetts, Showing Proposed Conditions at #50 Rowe Street," dated September 23, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
 - e. A plan entitled "Detail Sheet, Newton Massachusetts, Showing Proposed Conditions at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor and Marc Besic, Registered Professional Engineer;
 - f. A set of architectural plans entitled "New Two Family Plus Single Residence, 50-52 Rowe Street, Newton MA 02466," prepared by Ronald F. Jarek, Architect, dated April 18, 2016, as revised September 27, 2016, signed and stamped by Ronald F. Jarek, Registered Architect:
 - i) Title Sheet (A-0);
 - ii) Units 1-2-3 Proposed Conditions S.P. Sub (A-1)
 - iii) Units 1 - 2 Proposed Basement Floor Plan (A-2);
 - iv) Units 1 - 2 Proposed First Floor Plan (A-3);
 - v) Units 1 - 2 Proposed Second Floor Plan (A-4);
 - vi) Units 1 - 2 Roof Plan (A-5);
 - vii) Units 1 - 2 Proposed Elevations (Right and Front) (A-6);
 - viii) Units 1 - 2 Proposed Elevations (Left and Rear) (A-7);
 - ix) Unit 3 Proposed Basement & First Floor Plans (A-8);
 - x) Unit 3 Proposed Second Floor & Roof Floor Plans (A-9);
 - xi) Unit 3 Proposed Front & Right Side Elevations (A-10);
 - xii) Unit 3 Proposed Left Side & Rear Elevations (A-11);
 - xiii) Unit 1 - 2 Proposed Section A-A (A-13);
 - xiv) Unit 3 Proposed Section B-B (A-14);
 - xv) Units 1 - 2 Existing Basement & First Floor Plans (EX-1);
 - xvi) Units 1 - 2 Existing Second Floor & Roof Plans (EX-2);
 - xvii) Units 1 - 2 Existing Elevations (EX-3).
 - xviii) Landscape Plan (LA-1).
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for storm water management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.

3. 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.
4. Prior to the issuance of any Building Permits, the petitioner shall provide a final Landscape Plan for review and approval by the Director of Planning and Development. This plan shall include fencing and/or year-round vegetative screening, of at least five feet in height, along the southern property line.
5. Prior to the issuance of any Building Permit, the petitioner shall submit a final Construction Management Plan (CMP) to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should shall include at a minimum:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
 - e. A plan for rodent control during construction.
 - f. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
 - g. The CMP shall also address the following:
 - i. location(s) of a staging site for construction equipment and parking for construction workers vehicles;
 - ii. identification of building materials;
 - iii. phasing of the project with anticipated completion dates and milestones;
 - iv. safety precautions;
 - v. anticipated dewatering during construction;
 - vi. site safety and stability;
 - vii. impacts on abutting properties.
6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

- a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - b. Recorded a certified copy of this order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - c. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. Filed a final Landscape Plan to the Director of Planning and Development for review and approval.
 - f. 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 architect or engineer certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.
 - d. 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 fencing.
 - e. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the driveway apron and sidewalks along the property's frontage along Rowe Street have been reconstructed to the standards of the City of Newton Engineering Department and the Americans with Disabilities Act (ADA).
 - f. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the retaining wall located along the property's frontage along Rowe Street has been repaired consistent with the standards of the City of Newton Engineering Department.

8. Notwithstanding the provisions of Condition #7 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed 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 landscaping to secure installation of such landscaping.

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

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 October 6, 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 10/6 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