

CITY OF NEWTON
IN CITY COUNCIL

February 5, 2018

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 extend the nonconforming three-family use to allow four units, reduce the maximum lot area per unit, reduce the minimum open space, allow parking within a setback, and allow waivers to the dimensional standards of parking facilities containing more than five stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The 11,281 square foot site contains a dwelling which was constructed in 1895. By the 1930s, the dwelling contained three residential units and one storefront. The dwelling existed in this condition until no later than 1968.
2. By 1974, the existing storefront was converted into a separate residential unit, without any permit, creating a four-unit structure and rendering it noncompliant as to use and as to lot area per unit because the structure with four units does not meet the 3,000 square foot per unit area dimensional requirement of the Multi Residence 2 zone. There is no record of an enforcement action taken by the City with respect to the noncompliant four-unit dwelling.
3. A 2016 amendment to M.G.L. c. 40A, § 7 allows for a determination that a noncompliant structure in existence for at least ten years without an enforcement action taken by the City, is a valid nonconforming structure. Thus, the four-unit structure may be deemed to be a valid nonconforming structure with respect to lot area per unit.
4. The City's Zoning Ordinance and M.G.L. c. 40A, § 6 permit the granting of a special permit to allow the extension or alteration of pre-existing nonconforming structures or uses if the City Council determines that the resulting change extension or alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood.
5. The Council finds the proposed extension of the nonconforming three-family use to allow four units will not be substantially more detrimental than the legal nonconforming three-family use because the petition does not require any alterations to the site or dwelling. (§3.4.1 and §7.8.2.C.2).

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Newton City Clerk
2018 FEB - 7 10:25 AM
DAVID A. O'BRIEN
Newton, MA 02459

6. The Council finds that the legalization of the fourth unit will further diversify the City's housing stock by creating four units of 747, 811, 1264, and 1,371 square feet which is consistent with goals stated in the *2007 Comprehensive Plan* and the *City's Housing Strategy*.
7. The Council finds the proposed reduction in the lot area per unit will not be significantly more detrimental than the existing nonconforming structure is to the neighborhood because the lot area per unit of the structure, with four units, will be consistent with the lot area per unit of dwellings in the surrounding neighborhood. (§3.1.3 and §7.8.2.C.2)
8. The Council finds the proposed reduction in the minimum required open space will not be significantly more detrimental than the existing nonconforming open space is to the neighborhood because the two driveways facilitate a one-way flow of vehicles through the site. (§3.2.6 and §7.8.2.C.2)
9. Literal compliance with the requirements for parking facilities containing over five stalls, including parking in a setback, stall dimensions, aisle width, driveway width, tandem parking, perimeter screening requirements, and lighting and surface requirements are impractical due to the grade of the lot and are in the public interest because:
 - a. the difference in grade requires the parking facility to be concentrated towards the front of the lot;
 - b. parking for the four residential units will be contained on site; and
 - c. the concentration of parking in one area will preserve the remaining portion of the lot as open space.

(§5.1.8.A.1, §5.1.8.B.2 §5.1.8.C.1 §5.1.8.D.1 §5.1.8.E.1 §5.1.9, §5.1.10 and §5.1.13)

PETITION NUMBER: #24-18

PETITIONER: Alfredo Cedrone

LOCATION: 4-6 Middle Street, on land known as Section 12, Block 01, Lot 15, containing approximately 11, 297 square feet of land

OWNER: Alfredo Cedrone

ADDRESS OF OWNER: 11 Chapel Street
Newton, MA 02458

TO BE USED FOR: Multi-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES:

§3.4.1 and §7.8.2.C.2, to extend the non-conforming three-family use to allow four units; §3.2.6 and §7.8.2.C.2, Section 6 finding to legalize the noncompliant lot area per unit; §3.2.6 and §7.8.2.C.2 to reduce the minimum required open space; §5.1.8.A.1 and §5.1.13 to allow parking in the side setback; §5.1.8.B.2 and §5.1.13 to allow a reduced stall depth; §5.1.8.C.1 and §5.1.13 to allow a reduced aisle width; §5.1.8.D.1 and §5.1.13 to allow a reduced driveway width; §5.1.8.E.1 and §5.1.13 to allow tandem parking; §5.1.9 and §5.1.13 to waive the perimeter screening requirements; §5.1.10 and §5.1.13 to waive the lighting and surfacing requirements

ZONING:

Single Residence 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. Certified Plot Plan, 4-6 Middle Street, unsigned and unstamped, prepared by VTP Associates, dated October 26, 2017.
 - b. Architectural Floor Plan, 4-6 Middle Street, signed and stamped by Peter Sachs, Registered Architect, dated August 24, 2016, revised January 25, 2017.
2. There shall be no storage of construction vehicles, equipment and/or materials on the rear portion of the lot.
3. Access to the rear portion of the lot by way of Wiltshire Court shall be limited to vehicles for the purposes of yard maintenance and emergency vehicles only, to the extent the petitioner has rights to use Wiltshire Court.
4. 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 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 petitioner has:

- a. Filed with the Director of Planning and Development evidence that structure meets all applicable building, fire and life, safety codes.

Under Suspension of Rules

Readings Waived and Approved

22 yeas 0 nays 2 absent (Councilors Noel and Rice)

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 February 7, 2018. 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:

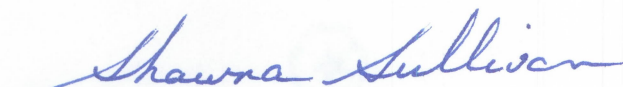


(SGD) ~~DAVID A. OLSON~~, City Clerk

acting 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 2/7/18 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