

CITY OF NEWTON

IN CITY COUNCIL

May 2, 2017

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 allow three single-family attached dwellings, reduce the frontage requirement, reduce the side setback requirement, and allow a driveway within 10 feet of a side lot line, within a Multi-Residence (MR1) zoning district; and to allow retaining walls four feet or higher in a setback, 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 three attached single-family dwellings it is located in a neighborhood with a mix of single- and multi- family dwellings and the lot area per unit of the proposed development is 7,846 square feet, significantly exceeding the minimum 4,000 square feet required. (§7.3.3.C.1; §3.4.1)
2. The site is an appropriate location for retaining walls four feet or higher in a setback given the property's steeply sloping topography and its grade relative to abutting properties. (§7.3.3.C.1; §5.4.2.B)
3. The proposed project as developed and operated will not adversely affect the surrounding neighborhood. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. Access to site is appropriate for the number and types of vehicles involved. (§7.3.3.C.4)
6. Literal compliance with the 80-foot frontage requirement for attached single-family dwellings in an MR1 district is impracticable due to the width and shape of the lot and an exception would be in the interest of the protection of environmental features; further, the lot was created prior to the adoption of said frontage requirement. (§3.2.4)
7. Literal compliance with the 25-foot side setback requirement for attached single-family dwellings in an MR1 zoning district is impracticable due to the grade of the lot, and such exceptions would be in the interest of the protection of environmental features. (§3.2.4)
8. Literal compliance with parking requirements not allowing a driveway within 10 feet of a side lot line is impracticable due to the shape and grade of the lot and an exception

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DAVID A. OLSON
CLERK
NEWTON, MA 02459

would be in the interest of the protection of environmental features (§6.2.3.B.2; §3.2.4)

PETITION NUMBER: #431-16

PETITIONER: 367-377 Langley Road LLC

LOCATION: 377 Langley Road, Ward 6, on land known as Section 65, Block 19, Lot 58 containing approximately 23,545 square feet of land

OWNER: 367-377 Langley Road LLC

ADDRESS OF OWNER: 15 Cypress Street
Newton, MA 02459

TO BE USED FOR: Three single-family attached dwellings

EXPLANATORY NOTES: Special permits as per §7.3.3:

- to allow attached single-family dwellings in an MR1 zoning district (§3.4.11);
- to reduce the frontage requirement for attached single-family dwellings in an MR1 zoning district (§3.2.4);
- to reduce the side setback requirement for attached single-family dwellings in an MR1 zoning district (§3.2.4);
- to allow a driveway within 10 feet of a side lot line for attached single-family dwellings in an MR1 zoning district (§6.2.3.B.2, §3.2.4);
- to allow a retaining wall four feet or higher in a setback (§5.4.2.B).

ZONING: Multi-Residence 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. Site plans, prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter Professional Land Surveyor, consisting of the following four (4) sheets:
 - i. "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions at #377 Langley Road," dated September 9, 2016;

- ii. "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Conditions at 377 Langley Road," dated December 7, 2016, as revised through April 27, 2017;
 - iii. "Cross Section Profile, Newton, Massachusetts, Showing Proposed Conditions at 377 Langley Road," dated April 27, 2017;
 - b. Detail plans prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter Professional Land Surveyor, consisting of the following two (2) sheets:
 - i. Detail-1 Newton, Massachusetts, Showing Proposed Conditions at 377 Langley Road," dated December 7, 2016; as revised through April 27, 2017;
 - ii. Detail-2, Newton, Massachusetts, Showing Proposed Conditions at 377 Langley Road," dated December 7, 2016; as revised through April 27, 2017.
 - c. Architectural plans entitled "377 Langley Road, Special Permit Presentation," prepared by ARCO, LLC, signed and stamped by Ronald R. Jarek, Registered Architect, dated December 8, 2016 as revised through April 27, 2017, consisting of the following ten (10) sheets:
 - i. Zoning/F.A.R. Calculations;
 - ii. Lower Level;
 - iii. 1st Level;
 - iv. 2nd Level;
 - v. 3rd Level;
 - vi. Front Elevation;
 - vii. Right Elevation;
 - viii. Rear Elevation;
 - ix. Left Elevation;
 - x. Landscape Plan.
2. The petitioner shall record at the Registry of Deeds for the Southern District of Middlesex County, a preservation restriction and accompanying plan to identify and demarcate the wooded hillside area at the rear of the site as a "restricted natural area" and to ensure its continued natural, scenic and undeveloped condition. Said recorded preservation restriction shall be substantially in the form of the draft preservation restriction attached hereto.
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. All utilities shall be located underground from the property line.
5. All lighting fixtures shall be residential in scale.
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 to the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a certified copy of an easement agreement recorded at the Registry of Deeds for the Southern District of Middlesex County providing for access to the subject property as shown in the plans referenced in Condition #1.
 - d. Submitted to the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a certified copy of an appropriate agreement recorded at the Registry of Deeds for the Southern District of Middlesex County allowing, to the extent required, the construction of any new retaining wall, or portion thereof, to be located on any abutting property and/or connected to any existing wall on any abutting property.
 - e. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - f. 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.
 - g. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - h. Provided a final Operations and Maintenance Plan (O&M) for stormwater 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 Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - i. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
 - j. The petitioner has submitted to the City Clerk, Law Department, Department of Inspectional Services and Department of Planning and Development copies of the preservation restriction and accompanying plan required under Condition 2 hereof imprinted with the recording information from the Registry of Deeds for the Southern District of Middlesex County.
7. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be

consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:

- a. staging site for construction equipment,
 - b. construction materials,
 - c. parking of construction workers' vehicles,
 - d. phasing of the project with anticipated completion dates and milestones,
 - e. safety precautions,
 - f. emergency contact personnel of contractor
 - g. anticipated dewatering during construction,
 - h. site safety & stability, and
 - i. impacts to abutting properties.
8. 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.
9. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
10. 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 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. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Incorporated the approved Operations and Maintenance Plan for Stormwater Management on file with the City Clerk's Office into the Master Deed, which shall be recorded in conjunction with the completion of the construction of such special permit, proof of which shall be submitted to the Engineering Division.
 - e. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
11. Notwithstanding the provisions of Condition #10e 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.

12. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.

Under Suspension of Rules

Readings Waived and Approved

21 yeas 1 nay (Councilor Brousal-Glaser) 2 absent (Councilors Auchincloss and Ciccone)

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 May 17, 2017. 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 5/17 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