

CITY OF NEWTON

IN CITY COUNCIL

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 allow a retaining wall in excess of 4 feet in height within the rear and side setbacks, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The specific site in a Single Residence 3 (SR3) district is an appropriate location for retaining wall in excess of four feet in height within the rear and side setbacks to assist in soil stabilization given the grades of adjacent properties (§7.3.3.C.1)
- 2) The retaining wall in excess of four feet in height within a setback will not adversely affect the neighborhood (§7.3.3.C.2)
- 3) The retaining wall in excess of four feet in height within a setback will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

PETITION NUMBER: #255-20

PETITIONER: Ali Kiapour

ADDRESS OF PETITIONER: 17 Wallace Street  
Newton, MA 02461

LOCATION: 17 Wallace Street, on land known as Section 83, Block 34, Lot 19,  
containing approximately 5,000 square feet of land

OWNER: Ali Kiapour

ADDRESS OF OWNER: 17 Wallace Street

Newton, MA 02461

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: Special permits per §7.3.3:

- to allow a retaining wall exceeding four feet in height within a setback (§3.4.2.B)

ZONING: Single Residence 3 (SR3) 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 site plan entitled "17 Wallace Street, Newton, Massachusetts, Existing Conditions Site Plan," prepared by Peter Nolan & Associates LLC, dated June 10, 2020, with location of walls in rear of property shown
  - b. Plans entitled "Retaining Wall Plan & Sections, Al Kia, 17 Wallace Street, Newton, MA," prepared by Robert Therrien, Architect, signed and stamped by Robert Therrien, Registered Architect, dated October 6, 2020, comprised of the following sheets:
    - i. "Rear of Lot Site Plan" and "Rear Wall- Section A"(Sheet A-1);
    - ii. "Rear Wall Elevation," "Right Wall Elevation," and "Left Wall Elevation" (Sheet A-2).
2. Prior to the issuance of any Building Permit issued pursuant to this Special Permit/Site Plan Approval, the Inspectional Services Department shall perform a structural analysis of the proposed retaining walls.
3. 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 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. Submitted a Final Site Plan for review and approval by the Engineering Division and the Planning and Development Department. Said plan shall indicate the location of all structures, walls, paved areas and fencing as well as the height of any walls and fencing.
  - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

4. 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 professional engineer or surveyor 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, engineer or 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 fencing.
5. The Petitioner shall ensure that any and all safety fencing installed in relation to the retaining walls approved pursuant to this order shall be maintained in good condition.