

CITY OF NEWTON

IN CITY COUNCIL

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 a nonconforming two-family dwelling use (§3.4.1, §7.8.2.C.2), extend a nonconforming front setback (§1.5.3.B, §3.1.3, §7.8.2.C.2), and to exceed the allowed floor area ratio (FAR), increasing it from 0.18 to 0.35 where 0.33 is the maximum allowed by right (§3.1.3, §3.1.9), as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed extended two-family use as designed, including an extended nonconforming front setback, would not be substantially more detrimental than the existing nonconforming use to the neighborhood as it would cover only approximately 17% of the parcel, is located on a large lot that would contain open space well in excess of the required 50%, and is abutted on two sides by Open Space (OS) zoned land used for cemetery purposes. (§7.8.2.C.2)
2. The proposed extended two-family dwelling as designed with a floor area ratio of 0.35, where 0.18 exists and 0.33 is the maximum allowed, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it is located on a large lot abutted on two sides by open space (OS) zoned land and the developed portions of the neighborhood features varied structures and topography. (§3.1.9)

PETITION NUMBER: #104-21

PETITIONER(S): Arone Brothers LLC

LOCATION: 74-76 Cummings Road, on land known as Section 64, Block 3, Lot 40, containing approximately 17,528 sq. ft. of land

OWNER(S): Arone Brothers LLC

ADDRESS OF OWNER(S): 35 Fair Oaks Avenue
Newton, MA 02460

TO BE USED FOR: Single-Family Residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- further increase nonconforming floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend a nonconforming front setback (§3.1.3, §7.8.2.C.2)
- extend a nonconforming rear setback (§3.1.3; §7.8.2.C.2)

ZONING: Single Residence 2 (SR2) 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 “Plan of Land, Newton, Massachusetts Showing Existing House and Proposed 2nd Unit Addition, #74-76 Cummings Road,” prepared by Bibbo Brothers & Associates, dated September 23, 2020, signed, stamped and dated by Robert Bibbo, Professional Land Surveyor on March 18, 2021.
 - b. A set of architectural plans entitled “Arone Brothers Development, 74-76 Cummings Road, Newton Centre, MA,” prepared by Island Architects, dated June 19, 2019, as revised through September 9, 2020, signed and stamped George M. Wallace, Registered Architect:
 - i. Basement Level (A1.1)
 - ii. First Floor Level (A1.2)
 - iii. Second Floor Level (A1.3)
 - iv. Front Elevation (A2.1)
 - v. Left Side Elevation (A2.3)
 - vi. Rear Elevation (A2.4)
 - c. A document entitled “Floor Area Ratio Worksheet, 74-76 Cummings Rd Newton,” indicating a proposed “Total gross floor area” of 6,173 square feet and a proposed “FAR” (floor area ratio) of 0.3522, signed and stamped by George M. Wallace, Registered Architect.

2. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval the petitioner shall conduct a pre-construction closed-circuit television (CCTV) inspection of the City's drainpipe and provide an electronic copy of such inspection to the Commissioner of Public Works.
3. The petitioner shall erect before and maintain during any construction on the property temporary fencing to protect the City sewer and drainage easement located along the rear property line, the location and type of which shall be subject to review and approval by the Division of Engineering prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval.
4. 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 order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. 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.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. Prior to the issuance of any certificate of occupancy pursuant to this Special Permit/Site Plan Approval, the petitioner shall conduct post-construction closed-circuit television (CCTV) inspection of the City's drainpipe and provide an electronic copy of such inspection to the Commissioner of Public Works.
6. 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 a registered architect and certifying compliance with Condition #1, including the as built FAR.
 - 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 land surveyor.
 - 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.