

#29-21

145 Warren Street

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CITY CLERK  
NEWTON, MA 02459

CITY OF NEWTON

IN CITY COUNCIL

December 20, 2021

CITY CLERK  
NEWTON, MA 02459

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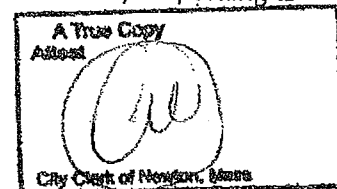
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ORDERED:

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 five single-family attached dwellings with exceptions to dimensional requirements for side setbacks and lot coverage, retaining walls four feet or more in height within a setback, to allow a driveway within ten feet of the side lot line, to allow for a reduced driveway width, and to waive three parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed five single-family attached dwellings because such use is allowed within the Multi-Residence 1 zone and the site has the required lot area. (§7.3.3.C.1)
2. The proposed five single-family attached dwellings will not adversely affect the neighborhood due to the proposed building design that preserves the historic structure and locates the additional massing to the rear. (§7.3.3.C.2)
3. The proposed single-family attached dwellings will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved.
5. The specific site is an appropriate location for the proposed retaining wall greater than four feet within the side setback due to the downward slope of the site and to accommodate the driveway along the property line. (§7.3.3.C.1)
6. The specific site is an appropriate location for the waiver of three parking stalls because it is proximate to the Newton Centre Village Center. (§7.3.3.C.1)
7. Literal compliance with the dimensional standards for the side setback, lot coverage, a driveway located within ten feet of the side lot line, and reduced driveway width is in the public interest because the building design preserves a historic structure, and the site design utilizes the existing driveway. (§6.2.3.B.2)
8. Literal compliance with the required number of parking stalls is in the public interest because the site is located within one half mile of transit, and secure and indoor bicycle parking is being provided in lieu of three parking stalls. (§5.1.4, §5.1.13)

Property Address: 145 Warren Street, Newton



PETITION NUMBER: #29-21

PETITIONER: 145 Warren CREH, LLC AND Norton Point Warren Street, LLC

LOCATION: 145 Warren Street, Ward 6, on land known as Section 61, Block 39, Lot 10, containing approximately 23,399 sq. ft. of land

OWNER: 145 Warren CREH, LLC AND Norton Point Warren Street, LLC

ADDRESS OF OWNER: 12 Morse Lane  
Natick MA 01760

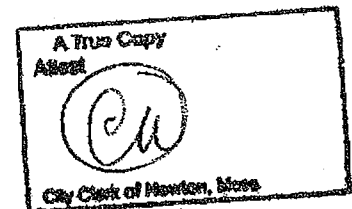
TO BE USED FOR: Five single-family attached dwellings

EXPLANATORY NOTES: Special permit to allow five attached single-family dwellings in a Multi-Residence 1 zoning district (§3.4.1); reduce the side setback requirement (§3.2.4); allow increased lot coverage (§3.2.4); allow retaining walls of four feet or more in height within a setback (§5.4.2.B); allow a driveway within ten feet of the side lot line (§6.2.3.B.2); allow reduced driveway width for parking facilities over five stalls (§5.1.8.D.1); and to waive three parking stalls (§5.1.4)

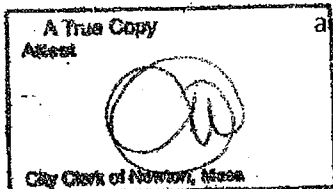
ZONING: Multi-Residence 1 (MR1) district

Approved subject to the following conditions:

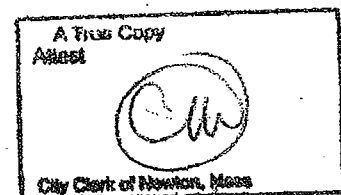
1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
  - a. A set of plans prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Mark Besio, Professional Engineer:
    - i. "Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, most recently revised: September 17, 2021
    - ii. "Grading, Drainage and Utility Plan, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021
    - iii. "Detail -1, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021
    - iv. "Detail -2, Showing Proposed Conditions at #145 Warren Street," dated November 4, 2020, Revised: January 20, 2021



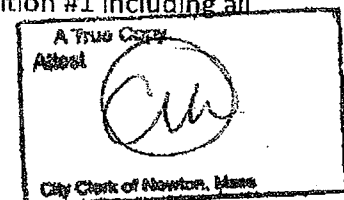
- b. Architectural plans entitled "145 Warren Street Newton Center" prepared by Civico Development, dated February 24, 2021, Revised August 23, 2021 signed and stamped by Andrew Consigli, Registered Architect:
  - i. Lower Level Plan (A1);
  - ii. Street Level Plan (A2);
  - iii. Upper Level Plan (A3).
  - iv. Elevations (Sides) (A4)
  - v. Elevations (Rear) (A5)
- c. Proposed Front Elevation titled "Preserving and bringing back Historic features" prepared by Civico, dated June 3, 2021.
- d. Landscape Plan entitled "Illustrative Planting Plan" prepared by Verdant, dated January 25, 2021, signed and stamped by Blair Hines, Registered Landscape Architect.
2. The petitioner shall preserve the existing proportions, substrate and architectural details that contribute to the historic significance of the original structure including but not limited to all exterior walls, roof structure, and window openings.
3. No building permit, including a foundation permit, shall be issued without approval from the Newton Historical Commission.
4. Mechanical equipment, including but not limited to generators, free-standing air conditioning units or compressors, shall be set back 25 feet from all property lines. This condition shall not apply to heat pump compressors.
5. Units 2-5 shall be designed and constructed to achieve Passive House certification as described in "145 Warren Street, Green Features" prepared by Sustainable Comfort, dated June 16, 2021 on file with the City Clerk and the Planning Department, and in accordance with the requirements of the Passive House US Institute (PHIUS), the Passive House Institute, or other recognized Passive House standards and/or certification organization.
6. Unit 1 shall be adapted to Universal Design standards in accordance with "145 Warren Street re: Universal Design" prepared by Sustainable Comfort dated June 15, 2021 on file with the City Clerk and the Planning Department.
7. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, City Engineer, and Department of Inspectional Services.
8. Prior to the issuance of a Building Permit, the petitioner shall provide a final design for a standby generator on site and implement such design to the satisfaction of the City Engineer.
9. Prior to the issuance of a Building Permit, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe on site and provide an electronic copy of such inspection to the Commissioner of Public Works.
10. The petitioner shall comply with the Tree Preservation Ordinance.
11. The Petitioner shall do the following to remediate pest and rodent activity:
  - a. Prior to issuance of any demolition or building permit, the petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for



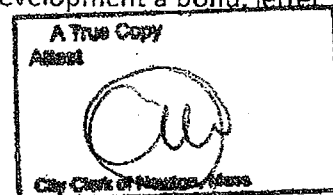
- pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
- b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copies of such approvals shall be provided to the Department of Planning and Development.
  - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
  - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.
  - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
12. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) 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. 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 from 8:00 a.m. to 5:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.



- e. 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.
  - f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
13. All constructor workers and construction vehicles are prohibited from parking on the surrounding residential streets.
14. The project shall be constructed in accordance with the Order of Conditions issued by the Conservation Commission and must seek approval from the Conservation Commission for any changes to the approved work.
15. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has 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, 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.
16. 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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
  - 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. 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.
  - f. 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.



- g. Filed with the City Clerk, Inspectional Services, and the Planning Department a statement from the Newton Historical Commission approving the final plans.
  - h. Submitted a Passive House narrative and/or checklist prepared and certified by a licensed architect to the Director of Planning and Development, indicating standards that will be achieved for Units two through five in order to achieve Passive House Certification in accordance with Condition #5.
  - i. Submitted a Universal Design narrative and/or checklist prepared and certified by a licensed architect to the Director of Planning and Development, indicating standards that will be achieved Unit One in order to achieve Universal Design designation in accordance with Condition #6.
17. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe on site and provide an electronic copy of such inspection to the Commissioner of Public Works.
18. No 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 statements by a registered architect and a professional land surveyor 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 Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with 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, fencing, and parking areas.
  - e. Filed with Inspectional Services and the Planning Department, a statement or certificate from a licensed architect certifying that the portions of the residential building that are designated Passive House have been constructed in accordance with Condition# 5.
  - f. Filed with Inspectional Services and the Planning Department, a statement or certificate from a licensed architect certifying that the portions of the residential building that are designated to be Universal Design have been constructed in accordance with Condition # 6
19. Notwithstanding the provisions of Condition #18 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development 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 site work to secure installation of such landscaping, fencing, signage and parking areas. This condition shall not apply to the public footpath.

Under Suspension of Rules

Readings Waived and Approved

17 yeas 6 nays (Councilors Baker, Gentile, Laredo Lucas, Malakie, Wright) 1 absent (Councilor Markiewicz)

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 December 22, 2021. 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:



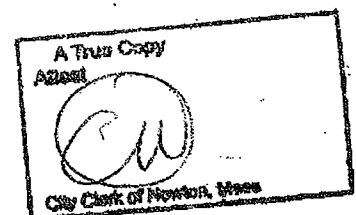
(SGD) CAROL MOORE, City Clerk  
Clerk of the City Council

I, Carol Moore, 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 December 22, 2021 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) CAROL MOORE, City Clerk  
Clerk of the City Council



Middlesex South Registry of Deeds  
Electronically Recorded Document

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Recording Information

Document Number	: 6489
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Recording Fee	: \$105.00

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**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)



*Terrence P. Morris, Esq.*  
*Law Offices of Terrence P. Morris LLC*  
*57 Elm Road*  
*Newton, MA 02460*  
*617 202-9132*

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2022 JAN 12 PM 5:28  
CITY CLERK  
NEWTON, MA. 02459

January 12, 2022

***By electronic transmission: cmoore@newtonma.gov***

Carol Moore, Clerk of the Council  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

Re: Council Order #29-21: 145 Warren Street  
Special Permit Conditions 16(a) and 16(b)

Dear Ms. Moore:

Enclosed please find a certified copy of the recorded Council Order in accordance with Condition 16(a) of the above-referenced special permit, which states that no building permit shall be issued *"until the petitioner., has recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County."*

This filing, with copies to ISD and Planning, will also satisfy Condition 16(b), which states that no building permit shall be issued until the petitioner *"has filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development."*

Thank you for your attention to this matter.

Sincerely,

***Terrence P. Morris***

Terrence P. Morris

Enclosure

Cc: Barney Heath, Director *via email*  
Planning and Development  
John Lojek, Commissioner *via email*  
Inspectional Services  
Katie Whewell, Senior Planner *via email*  
Planning and Development