

CITY OF NEWTON

IN CITY COUNCIL

December 20, 2021

RECEIVED  
2021 DEC 22 AM 11:30  
CITY CLERK  
NEWTON, MA, 02459

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 four Single-Family Attached Dwellings with waivers to the dimensional standards, to allow parking within the setback, to allow waivers to the parking stall dimensions, to allow waivers to the entrance and exit driveway dimensions, to allow parking within five feet of a structure containing dwelling units, to allow tandem parking, 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 four Single-Family Attached Dwellings because Single-Family Attached Dwellings are an allowed use in the Multi-Residence 1 zone and the petition exceeds the lot area per unit requirement (§7.3.3.C.1).
2. The proposed Single-Family Attached Dwellings as developed and operated will not adversely affect the surrounding neighborhood due to the presence of other multi-family uses in the area (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
4. Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
5. Granting exceptions to literal compliance with the parking requirements, specifically parking within a setback, parking within five feet of a structure containing dwelling units, parking stall dimensions, entrance and exit drive dimensions, and tandem parking is in the public interest because it allows for the preservation of existing historic structures while providing for adequate parking distributed in various locations on the site (§5.1.8.A, §5.1.8.B, §5.1.8.D.1, §5.1.8.E.1).
6. Granting exceptions to the dimensional standards of Single-Family Attached Dwellings, specifically, side and rear setbacks, locating parking with 20 feet of a lot line, and a locating a driveway within ten feet of a side lot line are in the public interest for the following reasons:
  - a. The site, as proposed, would exceed the required lot area per unit of Single-Family

Attached Dwellings;

- b. The structure has a larger setback and a smaller footprint than an as of right two-family dwelling; and
- c. Retaining existing driveway location preserves open space on site.

(§3.2.4 and §6.2.3.B.2)

- 7. The specific site is an appropriate location for a dormer greater than 50% of the width of the exterior wall below and a dormer that creates a continuous wall plan because the dormer would match the architecture of the historically significant dwelling (§1.5.4.G).

PETITION NUMBER: #388-21

PETITIONER: The Homes at Elliot, LLC

LOCATION: 300 Elliot Street, Ward 5, on land known as Section 51, Block 38, Lot 19, containing approximately 19,057 sq. ft. of land

OWNER: The Homes at Elliot, LLC

ADDRESS OF OWNER: 369 Congress Street  
Boston, MA 02110

TO BE USED FOR: Four Single-Family Attached Dwellings

EXPLANATORY NOTES: §3.4.1 and §7.3.3 to allow four Single-Family Attached Dwellings; §3.2.4 and §7.3.3 to reduce the side and rear setback requirement; §3.2.4 and §6.2.3.B.2 to allow a driveway within ten feet of a side lot line and parking within 20 feet of a lot line; §5.1.8.A.1 and §5.1.13 to allow parking within a side setback; 5.1.8.A.2 and §5.1.13 to allow parking within five feet of a building containing dwelling units; §5.1.8.B and §5.1.13 to waive the parking stall dimensions; §5.1.8.D.1 and §5.1.13 to reduce the minimum width of a driveway for two-way use; §5.1.8.E.1 and §5.1.13 to allow tandem parking; §1.5.4.G.2 to allow a continuous wall plane in a dormer and to allow a dormer wider than 50% of the wall below

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. A set of engineering plans entitled "Newton, Massachusetts, Showing Proposed Conditions at 300 Elliot Street," prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Marc Besio, Professional Engineer, consisting of the following sheets:
    - i. Topographic Site Plan (Sheet 1 of 3), dated October 8, 2021.
    - ii. Detail Sheet (Sheet 2 of 3), dated September 30, 2021
    - iii. Detail Sheet (Sheet 3 of 3), dated October 8, 2021
    - iv. Turning Template (Sheet 1 of 1), dated December 14, 2021
  - b. Architectural plans entitled, "300 Elliot St, Newton Falls, MA 02464," Innovative Collaborations, Inc., dated October 8, 2021, consisting of the following sheets:
    - i. Main House Elevations (A2.1)
    - ii. Main House Elevations (A2.2)
    - iii. Main House Elevations (A2.3)
    - iv. Main House Elevations (A2.4)
    - v. Garage Elevations (A2.7)
    - vi. Floor Plans Unit 1 & Unit 2 (A1.1)
    - vii. Floor Plans Unit 1 & Unit 2 (A1.2)
    - viii. Floor Plans Unit 1 & Unit 2 (A1.3)
    - ix. Floor Plans Unit 1 & Unit 2 (A1.4)
    - x. Carriage House Elevations (A2.5)
    - xi. Carriage House Elevations (A2.6)
    - xii. Floor Plans Unit 3 & Unit 4 (A1.5)
    - xiii. Floor Plans Unit 3 & Unit 4 (A1.6)
  - c. A landscape plan, "The Homes at Elliot Street- Conceptual Planting Plan," prepared by Innovative Collaborations, Inc., unsigned, unstamped, and undated.
2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
3. 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.
4. Prior to a building permit being issued pursuant to this special permit, the petitioner shall submit a construction management plan (CMP) for review and approval by the Engineering Division and the Director of Planning and Development. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
  5. Prior to the issuance of any building permit, the petitioner shall provide a final Operations and Maintenance ("O&M") Plan for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M plan shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.

6. Prior to the issuance of any building permit, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
7. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan for review and approval to the Commissioner of Public Works and the Director of Planning and Development.
8. 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. Recorded at the Registry of Deeds for the Southern District of Middlesex County a certified copy of the O&M and submitted to the Engineering Division of Public Works.
  - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
9. No Occupancy Permit/ Final Inspection 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 statement by a registered architect 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. 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.

10. Notwithstanding the provisions of Condition #7 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 provided 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.
11. 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  
23 yeas 0 nays 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