

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 extend a nonconforming two-family dwelling use; exceed FAR; further extend the nonconforming third story; extend nonconforming height; allow a dormer exceeding 50% of the wall next below; further reduce nonconforming open space; and allow a retaining wall exceeding four feet within the front setback as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The proposed expanded structure that would extend a nonconforming two-family dwelling use, further reduce nonconforming open space, further extend the nonconforming third story and extend the nonconforming height would not be substantially more detrimental than the existing nonconforming use to the neighborhood as it features a range of similarly scaled dwellings, the garage would be located in a portion of the lot largely occupied by paved driveway area, the existing roof ridgeline height would be maintained, and the third floor addition would be located on the rear of the structure with little visibility from the adjacent public way. (§7.8.2.C.2)
2. The proposed expanded structure with an increased floor area ratio (FAR) from 0.38 to 0.49, where 0.43 is the maximum allowed by right, would be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as they are a mix of single-, two-, and multi- family dwellings of various sizes , scales and designs (§3.1.9).
3. The site in a Single Residence 3 (SR3) zoning district is an appropriate location for the proposed modified two-family dwelling as designed including a dormer exceeding 50% of the wall next below and a retaining wall exceeding four feet within the front setback as it located in a neighborhood that is comprised of a mix of structures that includes similarly scaled dwellings. (§7.3.3.C.1)

4. the proposed modified two-family dwelling as designed including a dormer exceeding 50% of the wall next below and a retaining wall exceeding four feet within the front setback will not adversely affect the neighborhood as neither the proposed dormer's nor the proposed retaining wall's design will have a negative visual impact on the nearby public right of way and/or properties. (§7.3.3.C.2)
5. the proposed modified two-family dwelling as designed including a dormer exceeding 50% of the wall next below and a retaining wall exceeding four feet within the front setback will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
6. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #505-22

PETITIONER: Justin and Lorena Buck

LOCATION: 71-73 West Pine Street, on land known as Section 41 Block 31 Lot 35, containing approximately 8,997 sq. ft. of land

OWNER: Justin and Lorena Buck

ADDRESS OF OWNER: 71-73 West Pine Street
Newton, MA 02446

TO BE USED FOR: Single Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to:

- extend a nonconforming two-family dwelling use (§3.4.1, §7.8.2.C.2)
- exceed allowed floor area ratio (FAR) (§3.1.3, §3.1.9)
- further extend the nonconforming third story (§3.1.3, §7.8.2.C.2)
- extend nonconforming height (§3.1.3, §7.8.2.C.2)
- allow a dormer exceeding 50% of the wall next below (§1.5.4.G.2.b)
- further reduce nonconforming open space (§3.1.3, §7.8.2.C.2)
- allow a retaining wall exceeding four feet within the front setback (§5.4.2.B)

ZONING: Single Residence 3 (SR3)

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 the following plans:
 - a. a site plan entitled "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions" (*note*: plan details proposed conditions), dated July 18, 2021, prepared by VTP Associates, stamped and signed by Joseph R. Porter, Professional Land Surveyor
 - b. architectural plans entitled "Buck Residence, 71-73 West Pine Street, Auburndale, MA," prepared by Steven J. Meyers, AIA, dated May 25, 2022, as revised through July 1, 2022, comprised of the following sheets:
 - i. Floor Plans- Existing/Proposed (showing Basement Plan and First Floor Plan)(A1)
 - ii. Floor Plans- Existing/Proposed (showing Second Floor Plan and Third Floor Plan)(A2)
 - iii. Exterior (*sic*) Elevations- Existing (showing Left Side Elevation- Existing and Front Elevation- Existing)(A3)
 - iv. Exterior Elevations- Existing (showing Right Side Elevation- Existing and Front Elevation- Existing)(A4)
 - v. Exterior (*sic*) Elevations- Proposed (showing Left Side Elevation- Proposed and Front Elevation- Proposed)(A5)
 - vi. Exterior Elevations- Proposed (showing Right Side Elevation- Proposed and Rear Elevation- Proposed)(A6)
 - vii. Exterior (*sic*) Elevations- Proposed (showing Left Side Elevation- Proposed and Front Elevation- Proposed)(A5) modified to indicate front gable dormer dimensions
 - c. a document entitled "Floor Area Worksheet- 71-73 West Pine Street," indicating a proposed total gross floor area of 4,449 square feet and a proposed FAR (floor area ratio) of 0.49, signed and stamped by Richard Mark Whiteside, Registered Architect
2. 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 Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Provided a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:

- a. Filed with the building permit record statements by a registered architect and a professional land surveyor certifying compliance with Condition #1, including the as-built FAR.
- b. Submitted final as-built survey plans signed and stamped by a licensed land surveyor in digital format.