

CITY OF NEWTON
IN CITY COUNCIL

July 11, 2016

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 further increase the nonconformity of a structure with 3.5 stories, where 2.5 stories is the maximum allowed by right, and to further increase the nonconforming floor to area ratio (FAR) from .54 to .61, where .48 is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The site is an appropriate location for the proposed addition (§7.3.3.C.1).
2. The proposed addition which will increase the nonconformity of a structure with 3.5 stories, where 2.5 is the maximum allowed by-right, will not be substantially more detrimental than the existing non-conforming structure is to the surrounding neighborhood because the topography of the lot is such that the basement is counted as a story, therefore the addition to the second floor effectively increases the nonconformity of the structure. (§1.5.4.D, §1.5.4.E, §1.5.4.F, §3.1.3 and §7.8.2.C.2)
3. The proposed increase in FAR from .54 to 0.61, where .48 is the maximum allowed by right, will not be substantially more detrimental than the existing non-conforming structure is to the surrounding neighborhood because (§3.1.9 and §7.8.2.C.2):
 - a. The proposed addition lies within the existing footprint of the structure thereby preserving the setbacks;
 - b. The proposed addition is to the rear of the existing dwelling which will mitigate its visual impact on the street and abutting properties; and
 - c. The proposed addition will be in keeping with the architectural style of the existing dwelling.

PETITION NUMBER: #132-16

PETITIONER: Michael Kim

LOCATION: 110 Upland Avenue, on land known as Section 83, Block 09, Lot 10, containing approximately 6,304 square feet of land

OWNER: Steven Telio and Jodie Babitt

ADDRESS OF OWNER: 110 Upland Avenue
Newton, MA 02461

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §1.5.4.D, §1.5.4.E, §1.5.4.F §3.1.3, and §7.8.2.C.2, to further increase non-conforming number of stories; §3.1.9 and 7.8.2.C.2 to further increase the non-conforming FAR

ZONING: Single Residence 3 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. Site Plan, Proposed Additions, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated 3/25/2016
 - b. Architectural Plans and Elevations, signed and stamped by Michael Kim, Architect, dated 5/17/2016
2. 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 board 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. 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/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 or

land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.

- 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.