

DEPARTMENT OF PLANNING AND DEVELOPMENT

**CITY OF NEWTON
Massachusetts**

INTER-OFFICE CORRESPONDENCE

DATE: February 2, 2018

TO: All Members, City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: Recommitment of Special Permit #20-18
203 Elliot Street

The Land Use Committee held the public hearing on this petition on Tuesday, January 9, 2018 and approved the petition. One of the reliefs approved by the Committee was the request to extend the existing nonconforming commercial use to allow an art studio. The primary use of the art studio is for the personal use of the petitioners, but they also sought to provide workshops open to the public. Due to Massachusetts Architectural Access Board (MAAB) regulations, a restroom compliant with the Americans with Disabilities Act (ADA) was required to open the studio to the public, so the petitioners removed offering lessons from the petition. Subsequently, the petitioners asked the City Council to hold the vote on the petition to explore the feasibility of installing the ADA restroom. The petitioners have submitted revised plans, dated January 26, 2018, proposing the ADA restroom and fulfilling the MAAB regulations for the studio.

In the Public Hearing Memorandum dated January 5, 2018 the Planning Department supported the petition, but requested more information as to the operation of the art studio given the absence of street parking in the area. Staff recognized that parking for the commercial use was compliant with the Newton Zoning Ordinance, but still requested information regarding its use. The petitioners are seeking to operate the art studio under the below parameters:

- Hours of operation will be from 10:00 a.m. to 8:00 p.m.
- There will be no more than three workshops per day.
- The number of participants in each workshop, including the workshop leaders, will be limited to the maximum occupancy allowed per fire code.

The petitioners are proposing to restrict workshop registration to online or over the phone only to comply with the above conditions. During registration, the patrons who plan to drive will be directed to previously determined locations in the area. The petitioners also plan to offer incentives for

patrons who utilize alternative methods for transportation to discourage driving. The petitioners state this is their first experience conducting such a business, but they do not expect to exceed the provided limitations.

The petitioners have expressed a desire to serve the local neighborhood and have spoken with neighbors and appeared before the Upper Falls Area Council. As such, the Planning Department has suggested a condition requiring the petitioners to utilize the Upper Falls Area Council as a forum to work with the neighborhood regarding the operation of the commercial space, when appropriate.

ATTACHMENT A: DRAFT Council Order

cc: Planning Department Files
City Clerk Files

CITY OF NEWTON

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend the existing nonconforming commercial business use of the property to allow the creation of a dwelling unit above the existing structure on the site, further extend the nonconforming front and rear setbacks, and exceed the floor area ratio (FAR) from .26 to .63, where .58 is the maximum allowed by right, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Greg Schwartz:

1. The proposed extension of the existing nonconforming commercial use to allow a single-family dwelling above will not be substantially more detrimental than the existing nonconforming use is to the neighborhood because the proposed residential unit is a by-right use in the Multi Residence 1 zone and will increase the diversity of housing stock in the City. (§3.4.1 and §7.8.2.C.2)
2. The proposed extension of the existing nonconforming front setbacks will not be substantially more detrimental than the existing nonconforming setbacks are to the neighborhood because the addition will not encroach any farther into the setback than the existing footprint and the addition is set back from the street to add depth to the façade. (§3.2.3 and §7.8.2.C.2)
3. The proposed extension of the existing nonconforming rear setback will not be substantially more detrimental than the existing setback is to the neighborhood because the addition will not encroach any farther into the setback than the existing structure and different materials will be used to avoid the appearance of a continual wall plane (§3.2.3 and §7.8.2.C.2).
4. The proposed increase in FAR from .26 to .63, where .58 is the maximum allowed is consistent with and will not be in derogation of the size, scale, and design of other structures in the neighborhood because the design of the structure will utilize elements and techniques to reduce the bulk and mass of the structure and preserve the existing historic structure (§3.2.3 and §3.2.11).

PETITION NUMBER: #20-18

PETITIONER: Brice Ben Hobbs and Rebecca Bella Wangh

LOCATION: 203 Elliot Street, also known as Section 51, Block 18, Lot 04, containing approx. 4,164 square feet of land

OWNER: Brice Ben Hobbs and Rebecca Bella Wangh

ADDRESS OF OWNER: 203 Elliot Street
Newton, MA 02464

TO BE USED FOR: Mixed Use Building containing commercial and residential space

EXPLANATORY NOTES: §3.4.1 and §7.8.2.C.2 to extend the existing nonconforming use to allow a dwelling unit above; §3.2.3 and §7.8.2.C.2 to extend the existing nonconforming front setbacks; §3.2.3 and §7.8.2.C.2 to extend the existing nonconforming rear setback; §3.2.3 and §3.2.11 to exceed the FAR

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, constructed and operated consistent with:
 - a. Site/Civil Plans prepared by Merrill Engineers and Land Surveyors, consisting of the following two (2) sheets:
 - i. Site Plan dated April 19, 2017 Revised May 30, 2017, June 9, 2017 and July 13, 2017, stamped and signed by Shane M. Brenner, Professional Land Surveyor and Dana M. Altobello, Professional Engineer.
 - ii. Drainage Plan and Soil Logs dated April 19, 2017 Revised May 30, 2017, June 9, 2017 and July 13, 2017, stamped and signed by Dana M. Altobello, Professional Engineer.
 - b. Architectural Plans entitled "203 Elliot Street (Lil' Elliot), Newton, MA" prepared by Placetaylor Inc., dated August 4, 2017, consisting of the following twenty-nine (29) sheets:
 - i. Cover Page (A.000)
 - ii. Plot Plan (A.002)
 - iii. Existing Site Conditions (A.005)
 - iv. As Builts (A.101)

- v. Demolition Plan (A.102)
- vi. Level 0 (A.200)
- vii. Level 1 (A.201)
- viii. Phase 1 Studio (A.201A), revised January 26, 2018
- ix. Level 2 (A.202)
- x. Level 2.5 (A.203)
- xi. Roof Plan (A.204)
- xii. Exterior Elevations (A.300)
- xiii. Exterior Elevations (A.301)
- xiv. Exterior Elevations Perspectives (A.302)
- xv. Building Sections (A.400)
- xvi. Building Sections (A.401)
- xvii. Enlarged Plans (A.500)
- xviii. Interior Elevations (A.600)
- xix. Interior Details and Mounting Heights (A.603)
- xx. Stair Assembly (A.803)
- xxi. Level 0 + 1 (E.201)
- xxii. Level 2 + 3 (E.202)
- xxiii. Fire Alarm Plans Overall (FP.01)
- xxiv. Overall MP Plans (MP.100)
- xxv. Level 0 Foundation Plan (S.100)
- xxvi. Level 1 Framing Plan (S.101)
- xxvii. Level 2 Framing Plan (S.102)
- xxviii. Level 2.5 Framing Plan (S.103)
- xxix. Roof Framing Plan (S.104)
- xxx. Structural Sections and Details (S.105)
- xxxi. Structural Sections + Details (S.106)
- xxxii. 3D Structural (S.107)

2. With respect to the operation of the art studio, the Petitioners shall adhere to the following:
- a. Hours of operation shall be between 10 AM to 8 PM and limited to three workshops per day;
 - b. The number of persons using the art studio at any given time shall not exceed the then applicable fire code occupancy limit for the art studio;

- c. Workshop registration shall be limited to online or telephone only; walk-ins are only permitted so long as the number of participants do not exceed the then applicable fire code occupancy limit for the art studio;
 - d. At the time of registration, Petitioner agrees to provide incentives for participants of art workshops to use alternative modes of transportation (e.g. public transportation; bike; walk) and to encourage carpooling;
 - e. At the time of registration, Petitioner shall direct participants of art workshops who plan to drive to park their automobiles in various areas of the neighborhood so as not to congest the area immediately around the property or any one particular area within the neighborhood; and
 - f. Should the Petitioner or City receive legitimate complaint(s) of parking problems by art studio participants, then Petitioners shall use diligent efforts to appear before the Upper Falls Area Council to resolve such complaint(s).
- 3. Prior to the issuance of any building permit for the Project, the petitioner shall provide 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 recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works
- 4. Prior to the issuance of any building permit for the Project, 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.
- 5. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Landscape Plan for review and approval by the Director of Planning and Development.
- 6. 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 and Operations and Maintenance Plan for Stormwater Management.
- 7. No Final Inspection/Occupancy Permit for the use(s) covered by and/or pursuant to 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 statement by a registered architect or engineer 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 by a licensed 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 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 the final location, number and type of plant materials and final landscape features, fencing, and parking areas.
8. 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 provide 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.