

CITY OF NEWTON

IN CITY COUNCIL

April 17, 2018

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 the existing nonconforming use of the subject parcel for two single family dwellings, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The proposed extension of the existing nonconforming use by expanding one of the two single family dwellings on the subject parcel, 36 Cummings Road, will not be substantially more detrimental than the existing nonconforming two single family dwellings use is to the neighborhood as said expanded single family dwelling will be in conformance with relevant dimensional requirements, including floor area ratio (FAR), height, setbacks, open space and lot coverage regulations; further, the proposed addition will have limited visibility from adjoining public ways (§7.8.2.C.2).

PETITION NUMBER: #177-18

PETITIONER: Annamaria Mariani and Bill Frabizio

LOCATION: 36-40 Cummings Road, Ward 2, Newton Centre, on land known as Section 64 Block 03 Lot 47, containing approximately 18,866 sq. ft. of land

OWNERS: Annamaria Mariani and Bill Frabizio

ADDRESS OF OWNER: 36-40 Cummings Road

Newton, MA 02459

TO BE USED FOR: One of two single-family dwellings on the subject parcel

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §7.8.2.C.2, to extend the existing nonconforming use of the subject parcel for two single family dwellings

ZONING: Single Residence 2 (SR2) 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 plan entitled "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions at #36-40 Cummings Road," prepared by VTP Associates Inc., dated July 18, 2017, signed and stamped by Joseph R. Porter, Professional Land Surveyor.
 - b. A plan entitled "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #36-40 Cummings Road, Sheet 1 of 2," prepared by VTP Associates Inc., dated August 23, 2017, signed and stamped by Joseph R. Porter, Professional Land Surveyor.
 - c. A plan entitled "Detail Sheet, Newton, Massachusetts, Showing Proposed Conditions at #36-40 Cummings Road, Sheet 2 of 2," prepared by VTP Associates Inc., dated August 23, 2017, signed and stamped by Joseph R. Porter, Professional Land Surveyor.
 - d. An architectural plan entitled "Fabrizio Residence, 36-40 Cummings Road, Revere (sic), MA, Elevations Existing/Proposed" prepared by Commercial Residence Hospitality, dated November 2017.
 - e. A document entitled "Floor Area Ratio Worksheet, 36-40 Cummings Road," signed and stamped by Joseph R. Porter, Professional Land Surveyor.
2. 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.
3. Prior to the issuance of any Building Permit, the petitioner shall provide documentation authorizing and facilitating the proposed use of land to increase the size of the condominium unit identified as 36 Cummings Road for the purposes permitted by this order for review and approval by the Department of Planning and Development and the Law Department.
4. If so required by the City Engineer, 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 prior to the issuance of any Building Permit. Once approved, the O&M must be adopted by the applicant, incorporated into the deeds and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.

5. 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 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. 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.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
6. 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 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. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.