

CITY OF NEWTON

IN CITY COUNCIL

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 construct a multi-family dwelling with three units, to allow tandem parking of six stalls, to waive the perimeter screening requirements for parking facilities over five stalls, to reduce minimum isle width, to waive the City of Newton's accessible stall width, to allow parking in the front and side setbacks, to waive the use formula for parking, to waive the interior landscaping requirements and to waive the lighting requirements for parking facilities over five stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

Lot 1 – Multi-family Dwelling

1. The site is an appropriate location for the three-unit, multifamily dwelling on Lot 1 because the surrounding neighborhood includes multifamily residential uses and this provides a similar residential use in conformance with surrounding housing density. (§7.3.3.C.1)
2. The proposed three-unit multifamily dwelling on Lot 1 will not adversely affect the neighborhood because the project will be in conformance with neighboring residential uses and will increase open space. (§7.3.3.C.2)
3. There will not be a nuisance or serious hazard to vehicles or pedestrians with the construction of a multifamily dwelling on Lot 1 because all parking will be contained on site at the rear, with adequate fence and landscaping screening and pedestrian walkway access to the multifamily dwelling. (§7.3.3.C.3)
4. Access to the sites over streets is appropriate for the types and number of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with the parking requirements for Lot 1 is impracticable due to the irregular shape of the lot relative to the size of the proposed multifamily dwelling. (§5.1.13)
6. Literal compliance with the lighting requirements for parking facilities over five stalls for Lot 1 is impracticable nor in the public interest. The site has functioned

as a surface parking facility for many years and the required lighting levels set forth in the Ordinance may not be appropriate for the surface parking facility in a mixed use area near residential uses. (§5.1.13)

7. Literal compliance with the landscape requirements for perimeter screening for parking facilities over five stalls for Lot 1 is impracticable due to the location and design of the tandem parking stalls, which require the rear and western perimeter to remain accessible and unobstructed for vehicle entry/egress. (§5.1.13)

#### Lot 2 – Surface Parking Facility

1. The site is an appropriate location for the proposed non-accessory parking use on Lot 2 as the location abuts a commercial district and provides additional parking for businesses. (§7.3.3.C.1)
2. The proposed non-accessory parking at Lot 2 will not adversely affect the neighborhood because the location has been previously utilized for non-accessory parking and will not increase the number of vehicles stored on site. (§7.3.3.C.2)
3. There will not be a nuisance or serious hazard to vehicles or pedestrians with the construction of the non-accessory parking at Lot 2 because all parking will be contained on site with perimeter fencing to screen parking along the north, east and south sides of the lot. (§7.3.3.C.3)
4. Access to the sites over streets is appropriate for the types and number of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with the dimensional parking requirements for Lot 2 is impracticable due to the irregular shape of the lot, the inclusion of landscaping areas, and the proposed number of parking stalls. (§5.1.13)
6. Literal compliance with the lighting requirements for parking facilities over five stalls for Lot 2 is impracticable due to the location of the parking area. The site has functioned as a surface parking facility for many years and the required lighting levels set forth in the Ordinance may not be appropriate for the surface parking facility in a mixed use area near residential uses. (§5.1.13)
7. Literal compliance with the landscape requirements for perimeter screening for parking facilities over five stalls for Lot 2 is impracticable due to the irregular shape of the lot and the number of proposed parking stalls. 5.1.13)
8. Literal compliance with the interior landscape requirements for parking facilities with more than 20 stalls for Lot 2 is impracticable due to the irregular shape of the lot and the number of proposed parking stalls. 5.1.13)

PETITION NUMBER: #307-25  
PETITIONER: Two Squares, LLC  
LOCATION: 41 Farwell Street

The site is comprised of two lots shown as Lot 1 and Lot 2, respectively, on a Plan of Land titled “41 Farwell Street Newton Massachusetts Approval Not Required Plan”, dated July 21, 2022, and prepared by Peter J. Nolan, Professional Land Surveyor (the “ANR Plan”).

Lot 1 as shown on the ANR Plan (“Lot 1”), Ward 3, Nonantum, on land known as Section 21, Block 12, Lot 14, containing approximately 10,723 square feet of land.

Lot 2 as shown on the ANR Plan (“Lot 2”), Ward 3, Nonantum, on land known as Section 21, Block 12, Lot 13, containing approximately 14,090 square feet of land.

OWNER: Two Squares, LLC

ADDRESS OF OWNER: 56 Regent Street  
Cambridge, MA 02140

TO BE USED FOR: Multi-family dwelling for Lot 1; Non-Accessory Use Parking for Lot 2

RELIEF GRANTED: Special Permit per §7.3.3 to allow:

Lot 1: to allow a Multifamily dwelling (§3.4.1); to allow tandem parking of six stalls (§5.1.8.E.1, §5.1.13); to waive the perimeter screening requirements for parking facilities containing more than five stalls (§5.1.9.A, §5.1.13); to waive the lighting requirements for parking facilities containing more than five stalls (§5.1.10.A, §5.1.13)

Lot 2: to allow single-level non-accessory parking (§4.4.1); to waive the requirement to use the A-B+C formula to determine parking (§5.1.3.B, §5.1.13); to allow parking in the front and side setbacks (§5.1.8.A.1, §5.1.13); to waive the City of Newton’s accessible stall width (§5.1.8.B.4, §5.1.13); to reduce the minimum isle width requirement (§5.1.8.D.1, §5.1.13); to waive the perimeter screening

requirements (§5.1.9.A, §5.1.13); to waive the interior landscaping requirements (§5.1.9.B, §5.1.13); o waive the lighting requirements (§5.1.10.A, §5.1.13)

ZONING: Lot 1: Multi Residence 2 (previously zoned Limited Manufacturing)  
Lot 2: Limited Manufacturing

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 titled, "Civil Plan" signed and stamped by Peter J. Nolan, Professional Land Surveyor, and Edmond T. Spruhan, Professional Engineer, dated 8/5/2024, revised 11/6/2024 and 6/2/2025.
  - b. Zoning Plan, titled "Zoning Compliance Dim. Site Plan" prepared by Peter Quinn Architects, signed and stamped by Peter Samuel Quinn, Professional Architect, dated 11/2/2021, 1/17/2022, and 6/6/2025.
  - c. A set of architectural drawings prepared by Peter Quinn Architects, signed and stamped by Peter Samuel Quinn, Registered Architect, dated 11/2/2021, 1/17/2022, and 6/6/2025, and consisting of the following sheets:
    - i. "Front Elevation", Sheet A-3
    - ii. "Left Elevation", Sheet A-4
    - iii. "Rear Elevation", Sheet A-5
    - iv. "Right Elevation", Sheet A-6
  - d. A landscape plan entitled "Landscape Plan 41 Farwell Street" prepared by Verdant Landscape Architecture, unsigned and unstamped, dated 6/16/2022.
  - e. An ANR Plan, titled "41 Farwell Street Newton, Massachusetts Approval Not Required Plan" dated 7/21/2022 prepared by Peter Nolan & Associates, LLC, signed and stamped by Peter J. Nolan, Professional Land Surveyor.
2. The change of zone authorized by Council Order #306-25 shall take effect upon exercise of this Special Permit.
3. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval, should a system be required. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.

4. 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 for review and approval prior to issuance of any demolition or building permit. A copy of such approval 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.
  
5. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
  - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
  - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy.
  - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
  - f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize

off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.

- g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
  - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
6. Every deed or other instrument hereafter executed conveying the Property, or portion thereof, shall expressly reference the Middlesex South Registry of Deeds Book and Page number for this recorded Order.
7. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and 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. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
  - c. Submitted to the City's Engineering Department and Assessor's Office copies of the recorded ANR Plan referenced in Condition 1.d. of this special permit from the Middlesex South District Registry of Deeds.
  - d. Submitted a Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with this Order.
  - e. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
  - f. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
8. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested and the Petitioner has:

- a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1 and as delineated for Lots 1 and/or 2, respectively.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.
  - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1 as delineated for Lots 1 and/or 2, respectively.
  - d. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
  - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
9. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
10. Provided that all other requirements in Condition #8 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).