



Land Use Committee Agenda

RECEIVED

By City Clerk at 4:36 pm, Nov 08, 2018

City of Newton
In City Council



Tuesday, November 13, 2018

7:00 PM
Chamber

#562-18 Request for an Extension of Time for Special Permit at 19-21 Beaconwood Road
LENTO DEVELOPMENT, LLC/KENNETH LENTO petition for an EXTENSION OF TIME to EXERCISE SPECIAL PERMIT COUNCIL ORDER #129-17 to raze and replace a two-family structure and allow a 4% reduction to the required lot area after combining lots at 19-21 Beaconwood Road, Ward 8, on land known as Section 54, Block 22, Lot 0044 and Section 54, Block 022, Lot 0047, containing approximately 9,602 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3, 7.4, 7.8.4.D.4, 7.8.4.D.5, 7.8.4.A of the City of Newton Rev Zoning Ord, 2017.

Chairs Note: The presentation for the following two items will be relative to Site Design and Open Space. A Site Visit will be held on Tuesday, November 13, 2018 at 10:00 am. All interested parties are welcome to attend.

#425-18 Request to Rezone three parcels for Northland Development
NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, NORTHLAND OAK STREET, LLC petition for a change of zone to BUSINESS USE 4 for land located at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-2 81 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), currently zoned MU1.

#426-18 Special Permit to allow mixed use development
NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, LLC, NORTHLAND OAK STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a mixed-use development greater than 20,000 sq. ft. with building heights of up to 96' consisting of 822 residential units, with ground floor residential units, with restaurants with more than 50 seats, for-profit schools and educational uses, stand-alone ATMs drive-in businesses, open air businesses, hotels, accessory multi-level parking facilities, non-accessory single-level parking facilities, non-accessory multi-level parking facilities, places of amusement, radio or TV broadcasting studios, and lab and research facilities, to allow a waiver of 1,600 parking stalls, to allow a reduction in the overall parking requirement to not less than 1900 stalls, to

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

waive dimensional requirements for parking stalls, to waive end stall maneuvering requirements, to allow driveway entrances and exits in excess of 25', to waive perimeter landscaping requirements, to waive interior landscaping requirements, to waive lighting requirements for parking lots, to waive general lighting, surfacing and maintenance requirements, to waive off-street loading facilities requirements, to waive sign requirements relative to number, size, location or design, to waive the number of signs allowed at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), Newton Upper Falls, Ward 5, on 22.6 acres of land in a proposed BU4 district. Ref: Sec. 7.3.3, 7.4, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C, 5.4.2, 4.4.1, 5.1.4, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.D.2, 5.1.9.A, 5.1.9.B, 5.1.10.A.1, 5.1.10, 5.1.12, 5.1.13, 5.2, 5.2.13 of the City of Newton Rev Zoning Ord, 2017.

Respectfully submitted,

Greg Schwartz, Chair

G. MICHAEL PEIRCE, ESQ.**ATTORNEY AT LAW**

November 5, 2018

IN HAND DELIVERY

Nadia Kahn, Committee Clerk
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: # 129-17/19-21 Beaconwood Road/Request for Extension

Dear Nadia:

I am writing to request that you docket the accompanying letter with the City Council/Land Use Committee as a request to be placed upon an upcoming working session for an extension of time to exercise the above-captioned special permit granted to Lento Development LLC. The special permit (copy attached to letter to Chairman Schwartz) was granted September 5, 2107, filed with the city clerk on September 7, 2017 and recorded on October 4, 2017, after the expiration of the 20 day appeal period. As indicated my clients are, and have been, actively engaged in satisfying all the necessary conditions for the issuance of a building permit, all as detailed in that accompanying letter. This extension would enable them to complete that process and place them in a position to exercise their permit.

Thank you for your kind attention to this matter.

Very truly yours,


G. Michael Peirce

Encs.

Newton Wellesley Executive Office Park
60 Walnut Street, 4th Floor • Wellesley, Massachusetts 02481
Tel: 781-239-0400 Fax: 877-243-0405
mpeirce@gmpeircelaw.com

RECEIVED
Newton City Clerk
2018 NOV -5 PM 1:24
David A. Olson, CMC
Newton, MA 02459

G. MICHAEL PEIRCE, ESQ.**ATTORNEY AT LAW**

November 5, 2018

VIA HAND DELIVERY

Gregory R. Schwartz, Chairman
 Land Use Committee
 Newton City Council
 1000 Commonwealth Avenue
 Newton, MA 02459

Re: # 129-17/19-21 Beaconwood Road/Request for Extension

RECEIVED
 Newton City Clerk
 2018 NOV -5 PM 1:24
 David A. Olson, GMC
 Newton, MA 02459

Dear Chairman Larado:

I am writing on behalf of Lento Development LLC which was granted the above referenced special permit to allow for the construction of a 2-family house in a MR-1 zoning district on a lot that is slightly sub-standard for a 'new' lot in this district. The special permit (copy attached) was granted September 5, 2017, filed with the city clerk on September 7, 2017 and recorded on October 4, 2017, after the expiration of the 20 day appeal period.

While my client has been working diligently on the project, and our position is that in fact the sum of the steps taken meet the relevant ordinance requirements for a determination that the special permit has been exercised, we are filing this request in the event that that determination is not made in our favor. Please be advised that I only became aware of the planning department's position that this extension is needed on Friday, November 22nd. I intend to follow up with Commissioner Lojek immediately.

For the record please note that, among many others, the following steps were taken and conditions required to obtain a building permit were satisfied:

- Condition 8. Special permit recorded October 4, 2017;
- Condition 3. Contracted for and had performed, in spring, 2018, an extensive Closed Circuit Television Inspection of drainage pipe located in city easement;
- Condition 4. Prepared and due to encountering significant peat soils, had revised extensive geotechnical report and new foundation plan, filed with Engineering Division in late May/early June, which revised plan underwent a time consuming review process ;
- Condition 2. Prepared, submitted for review by Engineering Division and Law Department and recorded, in December, 2017, a license agreement which allowed for placement of retaining walls and patios on a portion of the city's drain easement located in back yard;

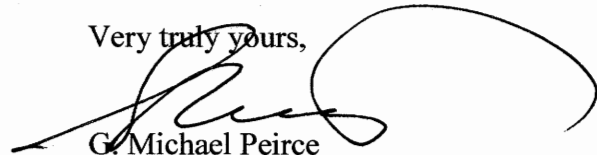
Newton Wellesley Executive Office Park
 60 Walnut Street, 4th Floor ▪ Wellesley, Massachusetts 02481
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 mpeirce@gmpeircelaw.com

Gregory R. Schwartz, Chairman
November 5, 2018
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- Received (on 7-31-2018) and exercised a demolition permit, taking down the original 2-family house, as no application for a new house will be accepted unless the house to be replaced has been demolished.

By this letter I respectfully request that pursuant to Section 7.3.2.E. of the zoning ordinance the period for exercise be extended for an additional six (6) months, which should be sufficient time for city departments to complete their reviews and for my client to commence construction under the special permit. I will look forward to appearing before the committee to answer any questions anyone may have. Given the time of year, any priority that may be given this request would be very much appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "G. Michael Peirce", with a large, sweeping flourish extending to the right.

G. Michael Peirce

Cc: Commissioner John Lojek (in hand)
Neil Cronin, Senior Planner (via e-mail)
Ouida C. M. Young, Associate City Solicitor (via e-mail)
Kenneth and Peter Lento (via e-mail)
Verne T. Porter, PLS (via email)



2017 00160905
Bk: 70032 Pg: 27 Doc: ORD
Page: 1 of 5 10/04/2017 10:59 AM

19-21 Beaconwood Road
#129-17

RECEIVED
Newton City Clerk
2017 SEP -7 PM 4:08
David A. Olson, CMC
Newton, MA 02459

CITY OF NEWTON

IN CITY COUNCIL

September 5, 2017

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow the required lot area to be decreased by 4% in conjunction to the construction of a two-family dwelling, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

OK 66922 - 428

1. The site is an appropriate location for the proposed two-family dwelling because a two-family structure is a by-right use in the Multi-Residence 1 zone (§7.3.3.C.1).
2. The proposed two-family use will not adversely affect the neighborhood because a two-family use has existed on site for many years (§7.3.3.C.2).
3. The proposed two-family use will not create a nuisance or serious hazard to vehicles or pedestrians because the design consolidates two existing curb cuts into one and the parking is accommodated on site (§7.3.3.C.3).
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).
5. The proposed reduction in the required lot area in conjunction to the construction of the two-family dwelling is consistent with and not in derogation of the size, scale, and design of other lots, buildings, and structures in the neighborhood because the lot area is consistent with the median lot area of the surrounding residential properties and the structure and lot are compliant with the dimensional controls of a new lot in the Multi-Residence 1 zone, except lot area and lot area per unit (§7.8.4.E).

PETITION NUMBER: #129-17

PETITIONER: Kenneth Lento

A True Copy
Attest
[Signature]

19-21 Beaconwood Rd,
Newton

ES

#129-17
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LOCATION: 19-21 Beaconwood Road, on land known as Section 54, Block 22, Lot 47 and 47, containing approximately 9,602 square feet of land

OWNER: Kenneth Lento

ADDRESS OF OWNER: 38 Eben Street
Milford, MA 01757

TO BE USED FOR: Two-family dwelling

CONSTRUCTION: Wood


EXPLANATORY NOTES: §7.8.4.D.4, §7.8.4.D.5, and §7.8.4.E

ZONING: Multi-Residence 1 (MR-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 and constructed consistent with the civil plan set consisting of the following four (4) sheets:
 - a. A plan entitled "19-21 Beaconwood Road Existing Conditions," signed and stamped by Verne T. Porter, Professional Land Surveyor, dated March 8, 2017.
 - b. A plan entitled "19-21 Beaconwood Road Proposed Conditions," signed and stamped by Verne T. Porter, Professional Land Surveyor, and Paul J. Tyrell, Professional Engineer, dated March 8, 2017.
 - c. A plan entitled "Detail Sheet," signed and stamped by Verne T. Porter, Professional Land Surveyor, and Paul J. Tyrell, Professional Engineer, dated March 8, 2017.
 - d. A plan entitled "19-21 Beaconwood Road Area Plan," signed and stamped by Verne T. Porter, Professional Land Surveyor, dated March 8, 2017.
 - e. Architectural Plans and Elevations, Prepared by Egan Associates, dated march 4, 2017 consisting of two (2) sheets:
 1. Sheet A-1, Floor Plans and Elevation, unsigned and unstamped.
 2. Sheet A-2, Basement Plan and Cross-Section, signed and stamped by Robert H. Egan, Registered Architect.
2. Prior to the issuance of any Building Permit, the petitioner shall obtain a license agreement with the City of Newton for the retaining walls and patios proposed over the City's Utility Drainage Easement.
3. Prior to the issuance of any Building Permit, the petitioner shall arrange for a Closed Circuit Television (CCTV) Inspection of the drain pipe located within the City's Utility Drainage Easement and provide a copy to the Engineering Division of Public Works.

A True Copy
Attest




#129-17
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4. Prior to the issuance of any Building Permit, the petitioner shall submit a report from a geotechnical engineer certifying the additional load of the retaining walls and patios will not compromise the capacity of the drain pipe located within the City's Utility Drainage Easement to the Engineering Division for review and approval.
5. Prior to the issuance of any Building Permit, 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 adopted by applicant, 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.
6. 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.
7. Prior to the issuance of any Building Permit, the petitioner shall submit a final Construction Management Plan (CMP) to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should include at a minimum:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. Proposed methods for dust control including, but not limited to: 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.
 - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
 - e. A plan for site access and traffic control.
 - f. A plan regulating the delivery of material to the site, including the staging and storage of construction vehicles.
 - g. Phasing of the project with anticipated completion dates and milestones.
 - h. Dewatering during construction.
 - i. Impact to abutting properties.
 - j. A plan for rodent control during construction.
 - k. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
8. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

A True Copy
Attest


#129-17
Page 4 of 5

- 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - e. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a copy of the CCTV inspection in accordance with Condition #3.
 - f. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a certified report from a geotechnical engineer in accordance with Condition #4.
 - g. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M Plan in accordance with Condition #5.
 - h. Received final approval from the Engineering Division of Public Works for the Final Site Plan.
9. No Final Inspection and/or Occupancy Permit for the improvements 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 land surveyor or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Performed a post-construction Closed Circuit Television Inspection of the drain pipe located within the City's Utility Drainage Easement and provided a copy of such inspection to the Engineering Division of Public Works.
 - d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
 - e. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, and final landscape features.
10. Notwithstanding the provisions of Condition #9 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

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Attest


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.

Under Suspension of Rules
Readings Waived and Approved
22 yeas 1 nay (Councilor Crossley) 1 absent (Councilor Lennon)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City
Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision,
the original of which having been filed with the City Clerk on September 7, 2017. The undersigned
further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE
PLAN APPROVAL have been complied with and that all plans referred to in the decision have been
filed with the City Clerk.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and
official keeper of the records of the CITY OF NEWTON, hereby certify that twenty Days have
elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the
City Clerk on 8/7 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has
been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council

A True Copy
Attest
