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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 24, 2020
Land Use Action Date: July 14, 2020
City Council Action Date: July 27, 2020
90-Day Expiration Date: July 27, 2020

DATE: April 24, 2020

TO: City Council

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

SUBJECT: **Petition #170-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four single-family attached dwelling units in two structures, to further extend the nonconforming height, to reduce the required side setback and to allow a driveway within ten feet of the side lot line at 70 Walker Street, Ward 2, Newtonville, on land known as Section 21 Block 33 Lot 7, containing 21,962 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.4, 7.8.2.C.2, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



70 Walker Street

EXECUTIVE SUMMARY

The property at 70 Walker Street consists of 21,962 square foot “L” shaped lot located in a Multi Residence 1 (MR1) zoning district. The lot is improved with a 2.5 story, single-family dwelling built circa 1865 and a detached accessory building with a basement accessed via a paved drive.

The petitioners propose to create four attached single-family dwellings in two separate structures on the property. This would be done by expanding the existing single-family dwelling on its rear and right sides to add a second dwelling unit on its rear (Units 1 and 2) and building a new second structure containing two attached single-family dwellings (Units 3 and 4) in the rear of the lot. Each of the four units would have attached ground level garages.

Per section 3.4.1, a special permit is required to construct attached single-family dwellings in the MR1 district. A special permit would also be needed to grant relief for several dimensional aspects of the proposed project:

- the proposed addition to the existing single-family dwelling would further extend (but not increase) its current nonconforming height of 38.65 feet, requiring a special permit per Sections 3.2.4 and 7.8.2.C.2
- single-family attached dwellings are required to have 25-foot front, side and rear setbacks per Section 3.2.4. As proposed, the development would maintain the existing 25.1-foot front setback and create a 25.9 foot rear setback. As the current 11.8 foot side left setback of the existing (but to be demolished) garage would be increased, but only slightly, to 13.9 feet by the proposed rear dwelling and the proposed rear addition to the existing dwelling would further reduce the right side setback, albeit only slightly, to 20.5 feet to approximately 11 feet, a special permit from the side setback requirements of section 3.2.4 is required
- per section 6.2.3.B.2, a special permit is required for the driveway proposed to be located within ten feet of parcel’s right (north) property boundary.

(Please note that this project was the subject of a special permit petition in late 2019.)

The Planning Department notes that while the project could diversify Newton’s housing stock, several of the nonconforming aspects of the proposal, such as its nonconforming side setbacks, could be addressed by reconfiguring the proposed structures to conform to the relevant requirements. For examples, the rear structure (Units 3 and 4) could be shifted to the right (south) and made smaller, and the addition to the existing structure (Units 1 and 2) could similarly be reconfigured and/or made smaller. The Planning Department recommends that the petitioner explore making such modifications so the proposal would require less relief and have less of an impact on abutting properties.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site in a Multi-Residence 1 (MR1) district is an appropriate location for the proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks (§7.3.3.C.1);
- The proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks, will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks, will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
- The further extension of the existing dwelling's nonconforming height would be substantially more detrimental than the existing nonconforming height to the neighborhood (§7.8.2.C.2);
- Granting an exception to the provisions of Sec 6.2.3.B.2 requiring that no driveway be located within 10 feet of a side or rear lot line is appropriate as literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD:

A. Neighborhood and Zoning

The neighborhood is predominantly residential with a mix of single- and two- family dwellings. There are five relatively small (approx. 3,900-5,100 square feet) lots clustered around Roberts Avenue just north of the site. Other uses include several multi-family dwellings interspersed throughout, such as a three-family across Walker Street, a twelve-unit multi-family dwelling about 400 feet to the south at the corner of Walker and Washington streets, and a multi-building apartment complex to the north at Walker and Watertown streets; as well as several commercial properties along Washington Street (across from the Massachusetts Turnpike)(**Attachment A**).

The subject property and the vicinity are generally zoned Multi Residence 1 (MR1), with Multi Residence 2 (MR2) areas to the south (generally along Washington Street), a Multi Residence 3 (MR3) property to the north (the location of the aforementioned multi-building apartment complex) and some Business (BUS) zoned properties to the south east along Washington Street and the Turnpike (**Attachment B**).

B. Site

The subject property consists of 21,962 square foot “L” shaped lot with approximately 80 feet of frontage located on the east side of Walker Street between Washington Street to the south and Roberts Avenue and Proctor Street to the north. Beyond about 100 feet of depth into the lot it widens to approximately 144 feet in width.

Improved with a 2.5 story, single-family dwelling built circa 1865 and a detached 1,050 square foot (not including its basement) accessory building, the site is generally level, with a slight downward grade of about five feet across the rear portion of the lot from left to right (north to south).

The property is accessed via a drive along the left (north) side of the dwelling that is paved with concrete near the street and transitions to gravel further to the rear. The accessory building’s basement is accessed by a ramp on its right (southern) side. The remaining portions of the site feature lawn area, mature trees and shrubs in various states of maintenance and a wooden deck off the rear right side of the dwelling.

III. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

The proposed use of the site is four attached single-family dwellings (two in each of two structures) with eight parking spaces, all within ground level garages attached to each of the dwelling units.

B. Building and Site Design

The petitioner is proposing to create four attached dwelling units, two within each of two structures. One structure would be the existing single-family dwelling expanded with a new single-family dwelling attached to its rear (Units 1 & 2). The other structure, which would also contain two attached single-family dwellings (Units 3 & 4), would be new construction in the rear of the property. Part of this new structure’s footprint (approx. one- third) would be located on the site of the existing rear accessory structure. The proposal’s resulting lot area per unit is 5,490 square feet, more than the minimum 4,000 square feet required.

Regarding the setbacks, single-family attached dwellings require 25-foot front, side and rear setbacks. While the property’s 25.1-foot front and 25.9-foot rear setbacks each exceed (if only slightly) the 25-foot requirement, both side setbacks fall short of this requirement.

The property’s left side setback, which is measured at the proposed rear structure’s left side, would be 13.9 feet. While this would represent an increase over the existing 10.8 foot side setback as measured from the existing rear accessory structure, the Planning

Department notes that the proposed rear structure's nonconforming left side setback would exacerbate the impact on abutting properties, especially those to the left (north) since at 2 ½ stories and over 32 feet in height with a 2,830 SF footprint, that structure would be considerably higher and larger than the existing rear barn/garage, a 1 ½ story accessory structure with an approximately 1,000 SF footprint.

Given that the lot can seemingly accommodate conforming 25 foot side and rear setbacks, the Planning Department continues to suggest (as it did with the previous petition for this project) that this rear structure be shifted to the right (south), as well as possibly made smaller, to lessen the impacts on the abutting properties to the left (north) while still providing conforming setbacks.

The Planning Department also has concerns regarding the location and scale of proposed rear addition to the front structure's left and right setbacks of 20.5 and 20.0 feet, respectively, as they also fall short of the required 25 feet. While the right setback of 20.0 feet is in effect an extension of its existing dwelling's right setback, if only its bay windows, it should be noted that the rear addition (containing Unit 2) reduces the front structure's left setback (again, as measured from a bay window) from 25 feet to a nonconforming 20.5 feet and does so for a length of approx. 40 feet. As with the proposed rear structure, the Planning Department suggests that the proposed rear addition to the front structure be modified to better conform with the required side setbacks and lessen the impacts on abutting properties.

Single-family attached dwellings are allowed to have 2 ½ stories and measure up to 36 feet in height by right. As proposed, the height if the expanded front dwelling (Units 1 and 2) would measure 38.59 feet. However, the Planning Department notes that it would be no higher than the existing dwelling's ridge height and this measured height would be "lower" than the existing structure's 38.65 feet (albeit extended laterally by the proposed rear addition) due to regrading. The proposed rear dwelling (Units 3 and 4) would have 2½ stories and measure 32.34 feet in height, below the allowed 36 feet.

Although the NZO does not establish floor area ratio (FAR) requirements for single family attached dwellings, the petitioner has indicated that the project's floor area ratio (FAR) is 0.51. The Planning Department notes, for comparison, that this is considerably more than the allowable FAR for single- and two- family structures on a similarly sized lot in an MR1 district which would be 0.41 with a possible bonus of 0.02 for new construction that complies with the "new lot" front, side and rear setback requirements of 25, 7.5 and 15 feet.

As proposed, open space on the lot would decrease from the existing 85.6% to 57.9% but remain above the required 50%. The property's lot coverage would be 24.9% higher than the 12.4% that currently exists but less than the maximum 25% required.

C. Parking and Circulation

The petitioners are proposing to provide eight parking spaces as attached two-car ground-level garages would be provided for each of the units. These spaces would be accessed with driveway/circulation areas of varying widths and surfacing (e.g., bituminous paving, pavers) that would be located less than ten feet from the left (northern) side lot line, thus requiring a special permit. The Planning Department notes that this design would appear to require the removal of a large mature tree and possibly endanger another. The Department recommends that the petitioner be prepared to discuss this at the public hearing and explore steps, if appropriate, to preserve these trees and, relatedly, reduce the amount of paving currently envisioned for the site.

D. Landscaping

It does not appear that a landscape plan was submitted with this petition. The Planning Department notes that such a plan would be important given the scale of the proposed structures and their close proximity in certain locations to property lines and abutting residences, as well as the proposal's impact on existing vegetation (discussed in part above), recommends that the petitioner be prepared to address screening and related landscaping issues at the public hearing.

(As the petitioner submitted a landscape plan during the 2019 review of this proposal, the Planning staff would suggest that the petitioner clarify in advance of at the public hearing as to whether it has a landscaping plan for the present petition and, if so, Planning staff expects to be prepared to review it in a timely fashion, especially if it the same or materially similar as that submitted for the previous petition.)

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit per §7.3.3 to:

- allow attached single-family dwellings (§3.2.4)
- further extend nonconforming height (§3.2.4;§7.8.2.C.2)
- reduce required side setback (§3.2.4)
- allow a driveway within 10 feet of the side lot line (§6.2.3.B.2)

B. Engineering Review

The Engineering Division Memorandum (**Attachment D**) provides an analysis of the proposal with regard to engineering issues. The memorandum raised several issues

the petitioner should clarify and/or resolve, including providing a plan that shows the project's drainage collection system and utilities for the Division's review and comment.

Also, the petitioner will need to submit an Operations and Maintenance (O&M) plan for Stormwater Management Facilities for the Division's review, and a construction management plan (CMP) will be required for this project and such requirement should be included in any Order for this petition.

C. Historic Preservation Review

On May 14, 2019, the Newton Historical Commission (NHC) waived the demolition delay based on revised plans that were presented to it on May 8, 2019, requiring only its review of final plans.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** Engineering Review Memorandum
- Attachment E:** Newton Historic Commission Decision, dated May 14, 2019
- Attachment F:** DRAFT Order

ATTACHMENT A








Land Use

70 Walker St.

*City of Newton,
Massachusetts*

Land Use

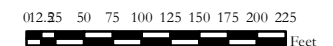
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: October 18, 2019





Zoning

70 Walker St.

*City of Newton,
Massachusetts*

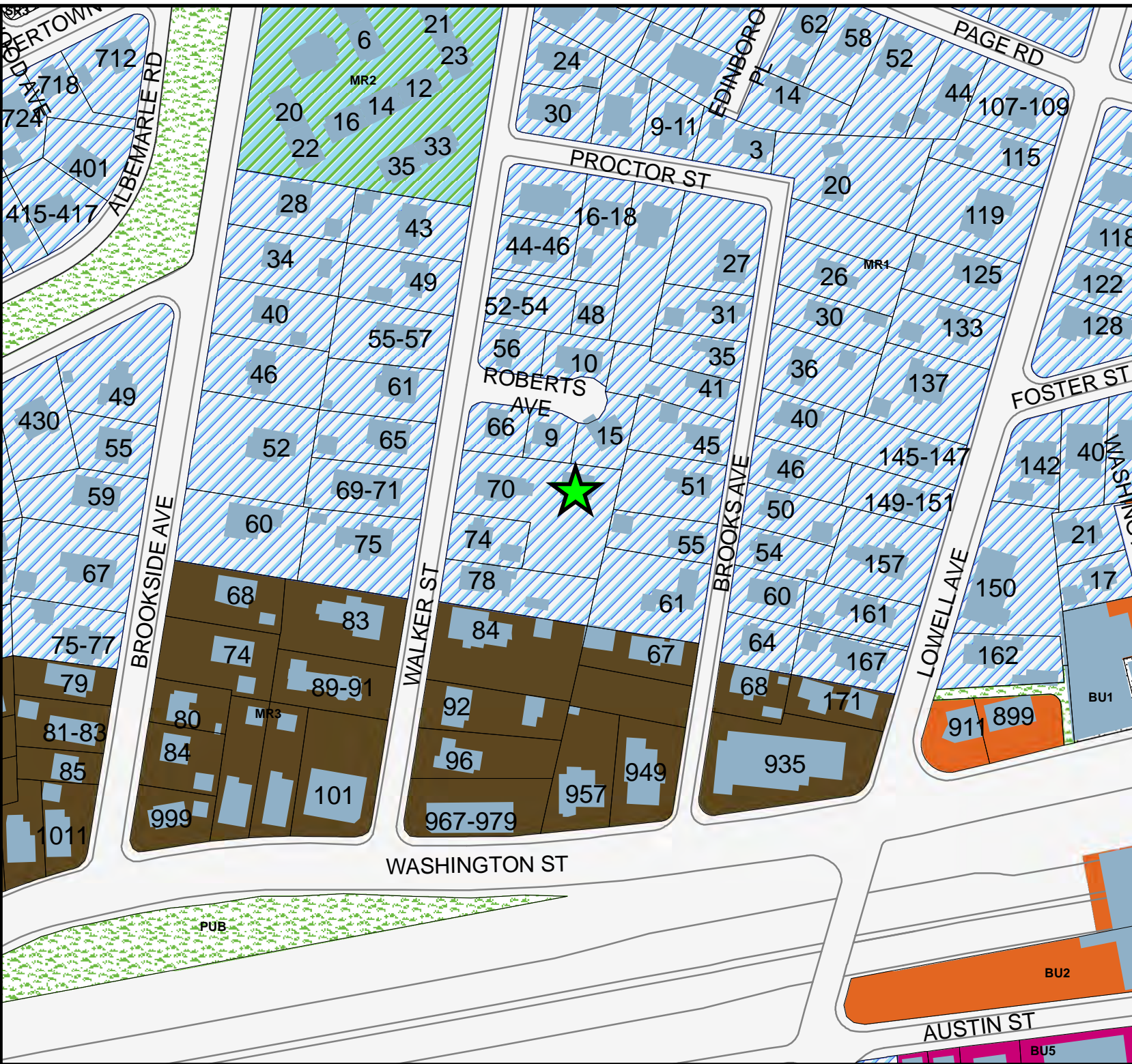
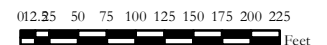
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Business 5
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
 Mayor - Ruthanne Fuller
 GIS Administrator - Douglas Greenfield





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 16, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Terrence P. Morris, Attorney
70 Walker Street LLC, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow four single-family attached dwellings in two structures

Applicant: 70 Walker Street LLC	
Site: 70 Walker Street	SBL: 21033 0007
Zoning: MR1	Lot Area: 21,962 square feet
Current use: Single-family dwelling	Proposed use: Four single-family attached dwellings

BACKGROUND:

The property at 70 Walker Street consists of 21,962 square feet and is improved with a single-family dwelling built in 1865 and a detached accessory building in the MR1 zoning district. The petitioners propose to add a second dwelling unit to the existing single-family dwelling, and to convert the existing garage into a dwelling unit and attach a second unit to it as well, creating four attached dwellings in two separate structures.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Terrence P. Morris, Attorney, dated 6/12/2019, revised 4/6/2019
- Topographic Site Plan, prepared by VTP Associates, surveyor, dated 1/21/2019, revised 9/24/2019, 2/27/2020
- Architectural Plans Elevations, prepared by arco design build, dated 6/5/2019, revised 12/4/2019
- Zoning Plan, signed and stamped by Joseph Porter, surveyor, dated 9/6/2019, revised 11/6/2019, 11/22/2019, 12/10/2019, 2/27/2020, 4/1/2020

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct four single-family attached dwellings within two separate structures in the Multi Residence 1 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. The existing single-family dwelling has an existing nonconforming height of 38.65 feet. The petitioners intend to construct a rear addition which further extends the existing height, though does not increase it. A special permit per sections 3.2.4 and 7.8.2.C.2 is required.
3. Section 3.2.4 requires a 25-foot setback for the front, side and rear of a single-family attached dwelling project. The petitioners propose to maintain the existing side setback of the front dwelling of 21.3 feet, and the existing 11.8-foot side setback of the rear garage structure, requiring a special permit from the side setback requirement of section 3.2.4.
4. The petitioners propose to construct a driveway along the northern property boundary, less than ten feet from the side lot line. Per section 6.2.3.B.2, a special permit is required to locate a driveway within ten feet of a side or rear lot line within a single-family attached dwelling project.

SR3 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	21,962 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks			
• Front	25 feet	25.1 feet	No change
• Side	25 feet	11.8 feet	13.9 feet
• Rear	25 feet	29.2 feet	25.9 feet
Building Height	36 feet	38.65 feet	Units 1-2: 38.59 feet Units 3-4: 32.62 feet
Max Number of Stories	2.5 (3 by special permit)	2.5	2.5
Lot Coverage	25%	12.4%	24.9%
Open Space	50%	85.6%	59%
Lot Area Per Unit	4,000 square feet	21,962 square feet	5,490 square feet

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.2.4	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4 §7.8.2.C.2	To further extend nonconforming height	S.P. per §7.3.3
§3.2.4	To reduce required side setback	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway within 10 feet of the side lot line	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlia, Associate City Engineer

Re: Special Permit – 70 Walker Street

Date: March 26, 2020

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director Planning
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Zoning Plan
Showing Proposed Conditions at
#70 Walker Street
Newton, MA
Prepared By: VTP Associates Inc.
Dated: February 27, 2020*

Executive Summary:

This Special Permit application entails the renovation and expansion of a single-family dwelling and demolition of a detached barn on a 20,151 square foot [0.46 acre] lot. The site has approximately 80-feet of frontage on Walker Street towards the west, and residential homes towards the north-east and south property lines. The applicant proposes to build four-unit dwellings in two separate detached buildings. The natural drainage patterns for the site is from a high point of 75-feet near the existing garage/barn and gently slopes towards the west (Walker Street) 74-feet and to the south (abutting neighbor) at 71-feet.

A drainage report incorporates a stormwater collection system for the runoff from the proposed project however the plan submitted does not show where the system is to be installed. A plan that show the drainage collection system and utilities for the project is needed for comment.

An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.



On-site soil evaluation is required to determine the seasonal high groundwater elevation and percolation rate these tests shall be performed within 25-feet of each system; soil logs shall be submitted for review.

Upon completion of decommissioning of existing utilities and installation of new utilities the sidewalks shall be updated to current standards.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.

2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service(s) shall be pressure tested and videotaped after final installation is complete. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service(s) will NOT be accepted until testing is satisfactorily completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. This note must be added to the final approved plans.

Water:

1. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
2. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*

4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. The contractor of record shall contact the Newton Police Department 48 hours in advanced and arrange for Police detail to help residents & commuters navigate around the construction activity.
9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.



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Barney S. Heath
 Director

Ruthanne Fuller
 Mayor

RECORD OF ACTION

DATE: May 14, 2019

SUBJECT: 70 Walker Street

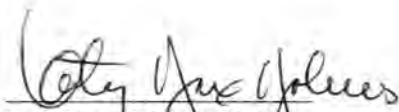
At a scheduled meeting and public hearing on May 8th, 2019, the Newton Historical Commission, by a vote of 6-0:

RESOLVED to waive the demo delay on 70 Walker Street based on revised plans presented on May 8th, 2019.

Voting in the Affirmative: _____ Voting in the Negative: _____ Recused: _____

- Peter Dimond, acting Chairman
- Deborah Budd, Alternate
- Mark Armstrong, Member
- Jean Fulkerson, Member
- Doug Cornelius, Member
- Jennifer Bentley-Houston, Alternate

Title Reference: _____ Owner of Property: 70 Walker Street LLC
Deed recorded at: _____ Middlesex (South) Registry of Deeds
Book 72128, Page 109
Date 1/15/2019


 Katy Hax Holmes, Staff

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 allow attached single-family dwellings in the Multi Residence 1 zoning district (§3.2.4); further extend nonconforming height (§3.2.4, §7.8.2.C.2); reduce required side setback (§3.2.4); and allow a driveway within 10 feet of the side lot line (§6.2.3.B.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Multi-Residence 1 (MR1) district is an appropriate location for the proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks, as it is located in a neighborhood with a mix of single-, two- and multi- family dwellings and commercial uses (§7.3.3.C.1);
2. The proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks, will not adversely affect the neighborhood (§7.3.3.C.2);
3. The proposed four single-family attached dwellings in two structures as designed, including nonconforming side setbacks, will not create a nuisance or serious hazard to vehicles or pedestrians (§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 further extension of the existing dwelling's nonconforming height would not be substantially more detrimental than the existing nonconforming height to the neighborhood (§7.8.2.C.2);
6. Granting exceptions to the provisions of §3.2.4 requiring 25 foot side setbacks is appropriate *as literal compliance with required side setback requirements is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features.*
7. Granting an exception to the provisions of Sec 6.2.3.B.2 requiring that no driveway shall be located within 10 feet of a side or rear lot line is appropriate *as literal compliance is*

impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.

PETITION NUMBER: #170-20

PETITIONER: 70 Walker Street LLC

LOCATION: 70 Walker Street, Ward 2, Newtonville, on land known as Section 21 Block 33 Lot 7, containing 21,962 sq. ft. of land

OWNER: 70 Walker Street LLC

ADDRESS OF OWNER: 15 Cypress Street
Suite 301
Newton Centre, MA 02459

TO BE USED FOR: Four single-family attached dwellings in two structures

EXPLANATORY NOTES: Special permit as per §7.3.3:

- allow attached single-family dwellings in an MR1 zoning district (§3.2.4)
- further extend nonconforming height (§3.2.4, §7.8.2.C.2)
- reduce required side setback (§3.2.4)
- allow a driveway within 10 feet of the side lot line (§6.2.3.B.2)

ZONING: Multi-Residence 1 (MR1) 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 plans, prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, consisting of the following sheets:
 - i. "Area Plan, Newton Massachusetts at 70 Walker Street," dated February 27, 2020
 - ii. "Zoning Plan Newton, Massachusetts, Showing Proposed Conditions at #70 Walker Street," dated September 6, 2019, as revised through February 27, 2020.

- iii. "Topographic Site Plan, Newton, Massachusetts, Showing Proposed Conditions at #70 Walker Street, Sheet 1 of 3" dated September 24, 2019, as revised through February 27, 2020;
 - iv. "Details, Newton, Massachusetts, Showing Proposed Conditions at #70 Walker Street, Sheet 2 of 3" dated September 24, 2019,
 - v. "Details, Newton, Massachusetts, Showing Proposed Conditions at #70 Walker Street, Sheet 3 of 3" dated September 24, 2019,
- b. Architectural plans entitled "70 Walker St.- Newton, MA, Two Buildings, Four Townhomes, 70 Walker St, Units 1 & 2," prepared by ARCO Design+Build, signed and stamped by Ronald F. Jarek, Registered Architect, dated December 4, 2019, consisting of the following sheets:
- i. Cover Sheet;
 - ii. First Floor (A-1.01);
 - iii. Second Floor (A-1.02);
 - iv. Third Floor (A-1.03);
 - v. Front Elevation (A-2.00);
 - vi. Left Elevation (A-2.01);
 - vii. Rear Elevation (A-2.02);
 - viii. Right Elevation (A-2.03).
- c. Architectural plans entitled "70 Walker St.- Newton, MA, Two Buildings, Four Townhomes, 70 Walker St Units 3 & 4," prepared by ARCO Design+Build, signed and stamped by Ronald F. Jarek, Registered Architect, dated December 4, 2019, consisting of the following sheets:
- i. Cover Sheet;
 - ii. First Floor (A-1.01);
 - iii. Second Floor (A-1.02);
 - iv. Third Floor (A-1.03);
 - v. Front Elevation (A-2.00);
 - vi. Left Elevation (A-2.01);
 - vii. Rear Elevation (A-2.02);
 - viii. Right Elevation (A-2.03).
- d. A landscape plan entitled "70 Walker Street, 70 Walker St- Newton, MA 02460, Design Drawing Set, Units 1 - 4," prepared by ARCO Design+Build, signed and stamped by Ronald F. Jarek, Registered Architect, dated December 2, 2019 consisting of the following sheet:
- i. Landscape Plan (A-0.01).
- e. Two architectural renderings depicting the front of the proposed project from the left and right sides of the property entitled "70 Walker Street, 70 Walker St- Newton, MA

02460, Design Drawing Set, Units 1 & 2” prepared by ARCO Design+Build, signed and stamped by Ronald F. Jarek, Registered Architect, dated December 2, 2019 consisting of the following sheets:

- i. 3D 1 (A-7.00);
 - ii. 3D 2 (A-7.01).
2. The petitioner shall preserve the existing proportions, substrate (underlying shell) and architectural details that contribute to the historic significance of the portions of the existing house structure to be preserved, including but not limited to all exterior walls, roof structure, and window openings. Any unforeseen changes to the existing proportions or substrate and architectural details that contribute to the historic significance of the portions of the existing house structure to be preserved shall not be made without approval by the Newton Historical Commission.
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. All lighting fixtures shall be residential in scale.
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 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.
 - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - f. Provided 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, incorporated into the deeds; and recorded at the Registry of Deeds for the Southern District of Middlesex County. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
6. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall submit a Construction Management Plan for review and approval by the

Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:

- a. staging site for construction equipment,
 - b. construction materials,
 - c. parking of construction workers' vehicles,
 - d. phasing of the project with anticipated completion dates and milestones,
 - e. safety precautions,
 - f. emergency contact personnel of contractor
 - g. anticipated dewatering during construction,
 - h. site safety & stability, and
 - i. impacts to abutting properties.
7. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 7:00 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.
8. No Final Inspection/Occupancy Permit for the use 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. 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.
 - 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 construction 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 final location, number and type of plant materials and final landscape features.
9. Notwithstanding the provisions of Condition #8 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 provided 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.

10. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.