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**Barney Heath**  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** June 12, 2020  
**MEETING DATE:** June 16, 2020  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

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### **PETITION #170-20**

**70 Walker Street**

**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.

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### **Background**

The Land Use Committee (the "Committee") held a public hearing on April 24, 2020 on this petition. This memorandum reflects additional information addressed to the Planning Department as of June 11, 2020 .

The petitioner proposes 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 single-family attached dwellings in the MR1 district. A special permit would also be needed to grant relief for several dimensional aspects of the proposed project.

### **Petition Update**

Subsequent to the Land Use Committee's April 24, 2020 public hearing on the present petition, in response to issues raised at that hearing and comments from the public and the Planning Department, the petitioner has made some changes to the proposed structures and site plan. These changes include:

#### ***Front Structure- Units 1 & 2***

The 3rd floor of the proposed Unit 2 has been eliminated and its footprint has been reduced. As a result, the total size of the two units to be located in the expanded front structure has been reduced by approximately a thousand square feet, from 6,296 to 5,262 square feet.

The Planning Department notes that the elimination of Unit 2's 3<sup>rd</sup> floor eliminates the need for one of the requested zoning reliefs, namely, a special permit per Sections 3.2.4 and 7.8.2.C.2 for the further extension of the currently nonconforming height of 38.65 feet.

#### ***Rear Structure- Units 3 & 4***

The proposed new rear structure containing Units 3 and 4 has been reduced and shifted to the right (southward), increasing its left side setback from 13.9 to 20 feet, five feet less than the required 25 feet. Its right-side setback has been reduced by slightly less than four feet, from 39.7 to 35 feet, 10 feet more than the required 25 feet. The total square footage of these two units has also been reduced, from 4,926 to 4,728 square feet.

Although the NZO does not establish floor area ratio (FAR) requirements for single-family attached dwellings, the Planning Department notes that the changes discussed above, by reducing the project's proposed gross floor area from 11,222 to 9,990 square feet, reduced the project's FAR from 0.51 to 0.45, closer to the 0.43 allowed for a new one- or two- family dwelling on the site that met "new lot" front, side and rear setback requirements (25, 7.5 and 15 feet, respectively).

As now proposed, open space on the lot would be 58%, slightly more than the previously proposed 57.9%. While this would be a decrease from the currently existing 85.6%, it would be well above the required 50%. The proposed lot coverage is now 24.32%, slightly less than both the 24.9% previously proposed and the maximum 25% allowed.

The Planning Department notes that the modifications have been reviewed by Newton Historic Commission (NHC) staff who has stated that the new design for the rear addition is more in keeping with what the NHC would have wanted to see than what was previously reviewed and approved.

#### ***Landscaping***

The landscape plan submitted by the petitioner (dated April 27, 2020) indicates extensive installation of trees (approximately 35) and other vegetation, especially around the periphery of the site. These

installations, in conjunction with the 6-foot fence also proposed for the property's periphery should adequately screen the site from neighboring properties. That said, the Planning Department suggests that the petitioner consider installing lower fencing on either side of the property between the sidewalk and the front structure.

Further, the Planning Department continues to note that as designed the 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 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 and explore steps, if appropriate, to preserve these trees and, relatedly, reduce the amount of paving currently envisioned for the site.

### **Next Steps**

The petitioner should be prepared to discuss the modifications to the proposal. The Planning Department also expects to be able to discuss what zoning redesign might affect the characteristics of such a project at the upcoming hearing.

### **ATTACHMENTS**

**Attachment A**          DRAFT Order

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 single-family attached 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 (§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 single-family attached 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 May 25, 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 **May 15, 2020**, consisting of the following sheets:
- i. Cover Sheet;
  - ii. **Lower Level (A-1.00);**
  - iii. First Floor (A-1.01);
  - iv. Second Floor (A-1.02);
  - iv. Attic Level (A-1.03);
  - v. Roof Plan (A-1.04);
  - 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 May 15, 2020, consisting of the following sheets:
- i. Cover Sheet;
  - ii. **Lower Level (A-1.00);**
  - iii. First Floor (A-1.01);
  - iv. Second Floor (A-1.02);
  - v. Attic Level (A-1.03);
  - vi. Roof Plan (A-1.04);
  - vii. Front Elevation (A-2.00);
  - viii. Left Elevation (A-2.01);
  - ix. Rear Elevation (A-2.02);
  - x. 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 **April 27, 2020**, 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 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.