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Mayor

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Barney S. Heath  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** July 7, 2017  
**MEETING DATE:** July 11, 2017  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Neil Cronin, Senior Planner  
**CC:** Petitioner

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

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### PETITION #129-17

**19-21 Beaconwood Road**

Request for Special Permit/Site Plan Approval to allow the required lot area to be reduced by 4% in conjunction to the construction of a two-family dwelling.

The Land Use Committee opened the public hearing on this petition on Tuesday, May 30, 2017 and held the hearing open. At that hearing, the Committee asked the petitioner's attorney to respond to a concern voiced by the Planning Department regarding the merger of the three lots in question to construct a new two-family structure which does not meet the lot area per unit dimensional control of a new lot in the Multi-Residence 1 (MR-1) zone. Section 7.8.4 of the Newton Zoning Ordinance allows the lot area to be reduced by as much as 5% when merging lots via special permit, but does not explicitly state that the lot area per unit can be waived as well. The petitioner's attorney has since met with the Commissioner of Inspectional Services and the City's Deputy City Solicitor and learned that Section 7.8.4 does allow the lot area per unit to be waived via special permit **(Attachment A)**.

Additionally, the Committee expressed concern over the width of the proposed curb cut to access the new structure. The site currently has two, ten foot wide curb cuts which allow for two off-street parking stalls (presumably the two other vehicles associated with the two-family dwelling utilized on-street parking). The proposed design removes both of these curb cuts, and provides one, twenty foot wide curb cut in the center of the site to provide access to the driveway and the two-car garage. In this scheme, each unit will have one stall in the garage and one stall in the driveway. Staff notes, that twenty feet is the maximum by-right width of a curb cut per the Newton Zoning Ordinance. In

addition, the petitioner will be required to repair the existing curb cut aprons to modern standards with granite curbing.

As stated in the initial memo, the Planning Department is not concerned with combining the three lots and constructing the new two-family dwelling as proposed. Staff believes the lot and structure will not be in derogation of the size, scale, and design of other lots, buildings, and structures in the neighborhood because the size of the lot is in keeping with the median lot size of the 29 residential properties within 300 feet and the structure meets the dimensional controls of a new lot in the MR-1 zone, excluding lot area and lot area per unit.

**ATTACHMENTS:**

**Attachment A:** Determination Letter, dated June 26, 2017

**Attachment B:** Draft Council Order

City of Newton



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## Inspectional Services Department

John D. Lojek, Commissioner  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449  
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Building/Zoning Inspectors  
(617) 796-1060  
Zoning Board of Appeals  
(617) 796-1065  
Plumbing and Gas Division  
(617) 796-1070  
Electrical Division  
(617) 796-1075  
TDD/TTY  
(617) 796-1089

June 26, 2017

G. Michael Pierce, Esq.  
Attorney At Law  
Newton Wellesley Executive Office Park  
60 Walnut Street, 4<sup>th</sup> floor  
Wellesley, Ma 02481

Re: 19-21 Beaconwood Road/ reduction in required lot area after change in size or shape of lot/ zoning determination

Dear Mr. Pierce:

I am in receipt of your recent letter regarding the availability of a Special Permit for the required zoning relief in this instance. A special Permit is available under section 7.8.4.E.1 & 2. As a result of the merger of the three lots there is no additional non-conformity created, the non-conformities already exist as to the lot area and the lot area per unit.

As a result of these conclusions, I believe that you are eligible to file for a special permit under Section 7.8.4.E. 1 & 2.

I hope this serves your clients' purposes. Please contact this office if you need further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Lojek".

John D. Lojek

cc: Jane Santasuosso, Chief Zoning Code Official

CITY OF NEWTON

IN CITY COUNCIL

August 14, 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:

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.

PETITION NUMBER: #129-17

PETITIONER: Kenneth Lento

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 Law Department for the proposed 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 and provide a copy to the Engineering Division of Public Works.

4. Prior to the issuance of any Building Permit, the petitioner shall submit a certified report from a geotechnical engineer determining the capacity of the drain pipe with the added loads of the retaining walls and patios 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. 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. Received final approval from the Director of Planning and Development for the Construction Management Plan.
  - d. 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.
  - 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. Received final approval from the Engineering Division of Public Works for the Final Site Plan.
  - h. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
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 and provided a copy of such inspection to the Engineering Division of Public Works.
  - d. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this 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

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.