



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: September 12, 2014
TO: Land Use Committee of the Board of Aldermen
FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner
CC: Petitioner

In response to questions raised at the Land Use Committee public hearings, and/or staff technical reviews, 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 public hearing.

PETITION #229-14

93 Bellevue Street

Request for Special Permit/Site Plan Approval to to amend special permit #127-80(2) to extend a nonconforming structure to add approximately 2,372 square feet to the rear of an existing dwelling (including a three-car garage), which is nonconforming as to height, including waivers from the preservation restriction.

The Land Use Committee (Committee) held a public hearing on July 29, 2014 which was held open. The Planning Department has received the following information in response to questions raised at the public hearing. A site visit was held on August 27th and August 28th for members of the Committee.



• **Restrictions Governing Site**

The site is comprised of two lots, Lot 39 on which the existing single-family residence is located (Riley House), and Lot 40 (east of lot 39) which contains landscaping only. Lot 38 (west of the subject property) is improved with the original carriage house that was accessory to the single-family residence on Lot 39. Board Orders #127-80 and #127-80(2) allowed for the conversion of the carriage house to

its currently existing multi-family six-unit condominium use. Conditions in the Board Orders include:

- That Lot 38 (carriage house) shall not be further subdivided for the purposes of creating additional housing;
- That no more than one dwelling unit shall be maintained on Lot 39 (Riley House) and that Lot 39 not be subdivided;
- That no structure shall be constructed on Lot 40 (landscaped lot) and Lot 40 shall not be subdivided;
- That a Conservation Restriction on Lots 38 and 39 shall be created to further prevent their subdivision so long as the carriage house on Lot 38 contains more than one residence; and
- That no façade alteration to the structure on Lot 38 shall be made without the review and approval of the Newton Historical Commission.

A Conservation Restriction was recorded and further memorializes the prohibition on the future subdivision of Lots 38 (carriage house), 39 (Riley house) and 40 (landscaped lot) as long as the carriage house contains more than one residence.

A third recorded document grants the City of Newton a Preservation Restriction on Lot 38 (carriage house) and Lot 39 (Riley House), which prohibits topographical changes, preserves the existing landscape and prohibits alteration to the façade of the carriage house without the review and approval of the Newton Historical Commission. Maintenance and selective cutting of trees is permitted in this Restriction.

The only restriction governing Lot 40 (landscaped lot) is the Board Order and Conservation Restriction which prohibit the construction of structures on or the subdivision of this lot, in essence, preserving it as vacant in perpetuity. The petitioner is seeking to construct a driveway on Lot 40 to a proposed new garage on Lot 39 (Riley House). As a driveway is not considered a structure and will be minimally visible from the public way the Planning Department does not believe the proposal to be in conflict with the relevant restrictions on Lot 40.

The proposed new driveway over Lot 40 (landscaped lot) and the proposed new garage on Lot 39 (Riley House) constitutes a change to the previously approved site plan under Board Orders #127-80 and #127-80(2) and an extension of a nonconforming structure.

The petitioner's council also provided an explanation of the restrictions on these lots dated August 18, 2014 that was distributed to the Committee.

- **Existing Driveway**

Although the existing garage on Lot 39 (Riley House) is presently accessed through Lot 38 (carriage house), the existing easement does not extend the full length of the access driveway to the existing or proposed new garage. Furthermore, the owners of the condominium on Lot 38 would like to discontinue the practice of the owners of Lot 39 accessing their garage through Lot 38. There are already six owners sharing the driveway and they believe that additional use by Lot 39 overburdens their property. Thus, the petitioners are currently proposing to locate a new

driveway on Lot 40 (landscaped lot) leading to a proposed new attached garage, and to discontinue the use of the existing easement and to close off access to Lot 38 from their lot.

- **Proposed Garage Addition**

The petitioners are proposing a new attached three-bay garage in keeping with the architectural style of the existing house on Lot 39. The proposed addition also includes a mudroom, bonus room, and a terrace. The proposed addition will not be visible from the public way and will be mostly screened from abutting properties. The addition was reviewed and approved by the Newton Historical Commission.

- **Proposed Driveway and Landscaping**

The proposed new driveway on Lot 40 (landscaped lot) has been designed to be minimally visible from the street as well as from the immediate abutter to the east. The proposed siting maintains the view of the landscaped lot adjacent to the house and nestles into the existing topography and landscaping. The driveway is proposed as 14 feet in width and there is a pull out area so that cars may pass each other.

Although the proposed driveway necessitates the removal of three trees from Lot 40, it preserves the most significant trees on the lot and the petitioners are proposing additional plantings along the eastern property line. The proposed tree removal and landscape plans have been reviewed and approved by the City's Director of Urban Forestry. Furthermore, the petitioner has agreed to retain a certified arborist to ensure the long-term health of the trees and other vegetation on the property that may be impacted by the construction of the proposed driveway. Should the Board choose to approve this project the Planning Department recommends this be a condition.

The proposed new driveway is crushed stone with a cobble edge at the front of the site. Once the proposed driveway reaches the far side of the wooded area its surface will change to a pigmented concrete and would be heated from that point onward to the proposed new garage.

The Planning Department notes that one Maple tree will be removed from Lot 39 as part of the proposed renovations. However, the remaining and proposed landscaping respects the historic character of the property and the Planning Department has no concerns with this change.

- **Proposed Lighting**

The petitioners are proposing nine new Victorian style iron lamp posts with frosted glass globes. These lights are proposed to be placed so as to not spill light onto adjacent neighbor's properties. The Planning Department had encouraged the petitioner to consider lower lighting but the petitioner believes proposed lighting is more in keeping with the character of the site. Nevertheless the Planning Department recommends that should the Board choose to approve this project a condition include that driveway lighting be placed on a motion sensor in order to ensure that lights are not left on all night.

- **Historical Commission Review**

The Preservation Restriction prohibits alteration to the façade of the carriage house on Lot 38 without the review and approval of the Newton Historical Commission. No changes to the carriage house are proposed. The Commission did review the proposed project at their July 2014 meeting and had no concerns with the proposed new addition on Lot 39 (Riley House). The existing garage is not original to the house and is not more than 50 years old and the Commission therefore waived the demolition delay at 93 Bellevue Street and approved the plans as submitted.

Recommendation

The petitioner has responded to each of the questions raised at the public hearing, and the Planning Department finds the application to be complete. For the reasons stated above, the Planning Department recommends **approval with conditions**.