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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: December 6, 2019
MEETING DATE: December 10, 2019
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate
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.

PETITION #175-19

145 Warren Street

Special Permit/Site Plan Approval to allow four Single-Family Attached Dwellings with waivers from the dimensional standards and to allow a retaining wall of greater than four feet in height within the setback.

The Land Use Committee (the "Committee") held public hearings on this petition on December 3, 2019, Thursday, October 10, 2019 and June 11, 2019. The public hearing was held open for the petitioner to respond to questions and concerns raised in the Planning Department's memorandum and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised materials submitted by the petitioner as of December 6, 2019.

The Public Hearing for this item was closed on December 3, 2019 and the Committee will discuss on December 10, 2019.

The Planning Department would like to correct an error that was made previously, the most recent memo issued on November 27, 2019 stated that the structure is considered 2.5 stories due to the plans submitted at the time. Following the issuance of that memo, the Petitioner and Planning met with the Plans Examiner in ISD and it was determined to be a three-story structure. No new relief is required as the project has gone through several iterations and was initially deemed a three-story structure.

Unit 2 is considered three stories; however, it will not be visible from the front elevation as it will not overshadow the existing structure.

There are no additional changes to the proposed project at this time.

ATTACHMENTS:

Attachment A: DRAFT Council 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 four single-family attached dwellings and grant exceptions to dimensional requirements for front, side setbacks and lot coverage, retaining walls within four feet or more in height within a setback, and to allow a driveway within ten feet of the side lot line, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- The specific site is an appropriate location for the proposed four single-family attached dwellings due to the surrounding and largely multifamily residential uses in on Warren Street in the Multi-Residence 1 zone and the site's proximity to the Newton Centre Village Center. (§7.3.3.C.1)
- The proposed four single-family attached dwellings will not adversely affect the neighborhood as there are three additional units being proposed in a largely multi-family residential neighborhood. (§7.3.3.C.2)
- The proposed single-family attached dwelling will not 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)
- Literal compliance with the dimensional standards for the side and rear setbacks, lot coverage and a driveway located within ten feet of the side lot line, 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 due to the proposed project incorporating an existing historically significant structure. (§3.2.4, §6.2.3.B.2)

PETITION NUMBER: #175-19

PETITIONER: 145 Warren Street LLC

LOCATION: 145 Warren Street, Ward 6, on land known as Section 61, Block 39, Lot 10, containing approximately 29,399 sq. ft. of land

OWNER: 145 Warren Street LLC

ADDRESS OF OWNER: c/o Laurance Lee
246 Walnut Street Suite 201
Newton, MA 02460

TO BE USED FOR: Four single-family attached dwellings

EXPLANATORY NOTES: Special permit as per §7.3.3 to:

- allow four attached single-family dwellings in a Multi-Residence 1 (MR1) zoning district (§3.4.1)
- allow three stories (§3.2.4)
- reduce the side setback requirement for attached single-family dwellings in an MR1 zoning district (§3.2.4)
- reduce the rear setback requirement for attached single-family dwellings in an MR1 zoning district (§3.2.4)
- reduce the lot coverage requirement for attached dwellings in the an MR1 zoning district (§3.2.4)
- allow a driveway within ten feet of the side lot line (§6.2.3.B.2)
- allow retaining walls of four feet or more in height within a setback (§5.4.2.B)

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. A set of plans prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Mark Besio, Professional Engineer:
 - i. “Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #145 Warren Street,”, dated April 1, 2019, revised: April 18, 2019; May 2, 2019; June 3, 2010; June 26, 2019; July 11, 2019, September 25, 2019, and November 6, 2019
 - b. Architectural plans entitled “Additional & Alterations to 145 Warren Street” prepared by Mark Sangiolo, dated April 2, 2019, revised November 18, 2019, signed and stamped by Mark Sangiolo, Registered Architect:

- i. Lower Level/Site Plan (A1);
 - ii. First Floor Plan (A2);
 - iii. Second Floor Plan and Roof Plan (A3).
 - iv. Street Elevation (Front and Rear) (A4)
 - v. Left Side Elevation (A5)
 - vi. Right Side Elevation (A6)
 - vii. Longitudinal Section (A7)
 - viii. Landscape Plan (L1)
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. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, Department of Engineering, and Department of Inspectional Services.
 4. Prior to the issuance of a Building Permit, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Warren Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
 5. The petitioner shall comply with the Tree Preservation Ordinance.
 6. All lighting fixtures shall be residential in scale.
 7. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) 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. 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 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. 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.
- f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
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. 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, 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.

- h. Filed with the City Clerk, Inspectional Services, and the Planning Department a statement from the Newton Historical Commission approving the final plans.
9. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Warren Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
10. No 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 Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
11. Notwithstanding the provisions of Condition #6 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development 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 site work to secure installation of such landscaping, fencing, signage and parking areas. This condition shall not apply to the public footpath.
12. The project shall be constructed in accordance with the Order of Conditions issued by the Conservation Commission and must seek approval from the Conservation Commission for any changes to the approved work.