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PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: December 6, 2019
MEETING DATE: December 10, 2019
TO: Land Use Committee of the City Council
FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, 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.

PETITION #320-19

70 Walker St.

Petition #320-19, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow four single family attached dwelling units in two, three-story structures, to further extend the nonconforming height, to reduce the required side setback, to exceed maximum lot coverage 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 Land Use Committee (the "Committee") held a public hearing on October 29, 2019 on this petition. This memo reflects additional information addressed to the Planning Department as of December 5, 2019.

Background

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 to add a second dwelling unit to it 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 accessed via a driveway of varying width along the left (north) side of the parcel.

Update

The petitioner submitted a revised proposal dated November 22; additional material was submitted December 2.

In its October 25, 2019 memorandum, the Planning Department noted that several of the nonconforming aspects of the initial proposal, such as its nonconforming side setbacks and excessive lot coverage, could be addressed by reconfiguring and reducing the size of the proposed structures so as to conform to relevant requirements and have less of an impact on abutting properties.

The revised plans respond somewhat to some of these concerns. For example, the footprints of Unit 2 (located in the front structure) and Units 3 and 4 (in the rear structure) have been decreased, resulting in a reduction of the project's aggregate floor area from 12,574 to 11,336 square feet. This, in turn, reduces its lot coverage from 28.2% to 24.9%, just below the maximum 25% allowed and obviating the need for that requested relief.

Regarding the setbacks, while the rear structure's left side setback has been increased slightly, from 10.8 to 13.9 feet, it remains well below the 25 feet required by the NZO for single family attached dwellings.

Given that the lot can seemingly accommodate conforming 25 foot side and rear setbacks, the Planning Department's previous memo suggested that this rear structure be shifted to the right (south), as well as made smaller, to lessen the impacts on the abutting properties to the left (north) while still providing conforming setbacks.

The Planning Department continues to recommend this change, and notes further that the proposed rear structure's nonconforming left side setback exacerbates its 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 which is a 1 ½ story accessory structure with an approximately 1,000 SF footprint.

The Planning Department also has concerns regarding the front structure's side setbacks. As originally proposed the addition to that dwelling (containing Unit 2) would have been 11.2 feet from the right side property line and a conforming 25.2 feet from the left side property line. Now, per the submitted revisions, that addition has been shifted to the left (north) which, while providing a wider, but still nonconforming (although similar to the existing structure) 20 foot right side setback, also results in the structure's left setback (already affected by the rear structure as discussed above) now being reduced to a nonconforming 20.5 feet.

Site Plan and Landscaping

The petitioner submitted an updated landscape plan to the Planning Department on Monday December 2. Planning staff's initial review of the plan indicates that it calls for the preservation of approximately 11 existing trees (deciduous and coniferous) and the installation of an additional 35 trees (including 20 arborvitae). The plan also calls for the removal of the mature tree along the left

side of the property discussed in the previous Planning memo. The petitioner has indicated that this action would be pursuant to the Tree Ordinance.

Also, while the driveway along the left side has been reconfigured somewhat to accommodate the above-referenced changes, the Planning Department continues to suggest the petitioner reduce the amount of paving currently envisioned for the site.

Further Changes (12/4/2019)

The revised plans were further revised with the submission of additional modified drawings to the Planning Department on December 4 related to the design of the third floor mansard roof line of the existing front structure. As represented by the petitioner, this change would result in a further reduction of the size of Unit 2, with the resulting aggregate size of the project being reduced to 11,222 square feet.

Historic Review

As the originally submitted design had been reviewed by the Newton Historic Commission and was approved by that body subject to review of final plans, the Planning Department recommends that the revised plans, including those submitted on December 4, be similarly reviewed by the NHC.

Engineering Review

The petitioner submitted updated material to the Engineering Division for its review on Monday, December 2. That office subsequently indicated that changes shown in the revised plans do not have any effect on any Engineering issues as compared to the original proposal.

The Planning Department will continue to review the recently-submitted materials and will be prepared to discuss them at the public hearing.

ATTACHMENTS

Attachment A DRAFT Order

ATTACHMENT A

DRAFT- #320-19
70 Walker Street

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); allow attached single-family dwellings with three stories (§3.2.4); further extend nonconforming height (§3.2.4, §7.8.2.C.2); reduce required side setback (§3.2.4); ~~exceed maximum lot coverage (§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 Gregory Schwartz:

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 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 will not adversely affect the neighborhood (§7.3.3.C.2);
3. The proposed four single-family attached dwellings in two structures as designed 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: #320-19

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)
- allow attached single-family dwellings with three stories (§3.2.4)
- further extend nonconforming height (§3.2.4, §7.8.2.C.2)
- reduce required side setback (§3.2.4)
- ~~exceed maximum lot coverage (§3.2.4)~~
- allow a driveway within 10 feet of the side lot line (§6.2.3.B.2)

ZONING: Multi-Residence 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:
 - a. Site plans, prepared by VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, consisting of the following sheets:
 - i. "Topographic Site Plan, Newton, Massachusetts, Showing Existing Conditions at #70 Walker Street," dated January 21, 2019;
 - ii. "Zoning Plan Newton, Massachusetts, Showing Proposed Conditions at #70 Walker Street," dated September 6, 2019, as revised through December 4, 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 September 6, 2019, as revised through 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 September 6, 2019, as revised through 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. 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” prepared by ARCO Design+Build, signed and stamped by Ronald F. Jarek, Registered Architect, dated December 2, 2019 consisting of the following sheets:
 - i. Units 1 & 2, 3d 1 (A-7.00);
 - ii. Units 1 & 2, 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 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.
 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.