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Barney Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: September 23, 2016
MEETING DATE: September 27, 2016
TO: Land Use Committee of the City Council
FROM: Barney Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, Senior Planner
CC: Petitioner

In response to questions raised at the Land Use Committee public hearing, 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 #217-16

50 Rowe Street

Request for Special Permit/Site Plan Approval for the extension of a non-conforming use by building a rear addition to existing building and constructing a second two-family dwelling at 50-52 Rowe Street.

The Land Use Committee (the "Committee") held a public hearing on July 26, 2016 that was held open so that the petitioner could respond to questions/concerns that were raised in the Planning Department's memorandum and at the public hearing by the Committee and the public. This memo reflects those issues and concerns, as well as revised plans and additional information submitted by the petitioner as of September 23, 2016, as addressed to the Planning Department.

Plan Modifications

The petitioner initially proposed to maintain two units in the existing structure while adding approximately 1,300 square feet to it (mostly within a two-story rear addition), and to construct an additional detached two-family dwelling on the lot. Subsequent to the July 26th public hearing, the petitioner has indicated the intent to modify the proposed new structure so as to contain only a single dwelling. It would be of the same size as the previously proposed two-family structure, but it would be shifted to provide a 25 foot side setback from the property's southern property line. Additional landscaping would also be provided in that area.

On September 23, 2016, the petitioner submitted a set of modified architectural drawings and a landscape plan reflecting these proposed changes. The petitioner has indicated that a revised site plan also reflecting the changes will be submitted prior to the meeting on Tuesday, September 27. The petitioner has stated that the height or lot coverage will not change with the modified site plan, and there should be an increase in the resulting open space (approximately 61%) due to a reduction in the common driveway in front of the new building and the elimination of one parking space.

The Planning Department expects to receive the updated plan in a timely fashion so as to allow for an appropriate review of the modifications in advance of Tuesday's meeting.

A special permit is still required to further extend the nonconforming use in the Single Residence 3 zoning district to allow for one additional dwelling on the lot; a special permit is also required to allow the requested further reduction in the currently nonconforming lot area per unit. While supportive of the proposed modifications, the Planning Department continues to have some concern with the proposal as it would add a new detached single dwelling to a lot that already includes a nonconforming two-family dwelling in a single residence district. The Planning Department does note, however, where the previously proposed two additional units would have reduced the already non-conforming lot area per unit from 9,660.5 to 4,830.25 square feet in a district where 10,000 square feet per unit is required, the additional of only one additional unit would result in a higher lot area per unit of 6,440 square feet, more in keeping with the surrounding neighborhood.

ATTACHMENTS:

Attachment A: Draft Board Order

ATTACHMENT A

DRAFT- #217-16
50 Rowe StreetCITY OF NEWTONIN CITY COUNCIL

October 3, 2016

ORDERED:

That the 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 further extend the nonconforming two-family residential use and extend the nonconforming lot area per unit in an SR2 zoning district at 50-52 Rowe Street, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The extension of the nonconforming use and structure will not be substantially more detrimental than the existing nonconforming use is to the neighborhood as the expanded two-family dwelling and the proposed additional one-family dwelling, given their relatively modest sizes and large size of the property, will not be out of scale or character with the surrounding neighborhood. Furthermore, as designed the proposed improvements will result in the replacement of a large, paved area with a sensitively designed structure and associated landscape improvements where a large barn previously existed (§3.4.1 and 7.8.2.C.2).
2. The further extension of the nonconforming lot area per unit will not be substantially more detrimental than the existing nonconforming lot area per unit to the neighborhood as many of the surrounding properties are also nonconforming with respect to lot area per unit and the further reduced lot area per unit will remain in keeping with the neighborhood average (§3.1.3 and §7.8.2.C.2).
3. The site is an appropriate location for the proposed expanded structure and the proposed additional one-family dwelling as the property is a large lot and the proposed structures will conform with current Floor Area Ratio (FAR), height, lot coverage and open space requirements and preserve the existing structure (§7.3.3.C.1).
4. The proposed use and structures as developed and operated will not adversely affect the neighborhood as they are expected to produce conditions and a built environment similar to and consistent with those already commonly present in the neighborhood (§7.3.3.C.2).
5. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).

6. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #217-16

PETITIONER: New Newton LLC / Daniel Szeto

LOCATION: 50 Rowe Street, Section 44, Block 23, Lot 6, containing approximately 19,321 square feet of land

OWNER: New Newton, LLC

ADDRESS OF OWNER: 2193 Commonwealth Avenue
Brighton, MA 02135

TO BE USED FOR: Two (2) two-family residences

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.4 and §7.8.2.C.2 to further extend a nonconforming two-family residential use in a Single Residence 3 (SR-3) District

§3.1.3 and §7.8.2.C.2 to further extend nonconforming lot area per unit

ZONING: Single Residence 3 (SR-3) 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 plan entitled "Area Plan, Newton Massachusetts at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
 - b. A plan entitled "Zoning Plan, Newton Massachusetts, Showing Existing Conditions at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
 - c. A plan entitled "Zoning Plan, Newton Massachusetts, Showing Proposed Conditions at #50 Rowe Street," dated April 22, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;

- d. A plan entitled "Topographic Site Plan, Newton Massachusetts, Showing Proposed Conditions at #50 Rowe Street," dated June 13, 2016, prepared by VTP Associates Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor;
- e. A set of architectural plans entitled "New Two Family Plus Single Residence, 50-52 Rowe Street, Newton MA 02466," prepared by Ronald F. Jarek, Architect, dated April 18, 2016, as revised September 27, 2016, signed and stamped by Ronald F. Jarek, Registered Architect:
- i) Title Sheet (A-0);
 - ii) Units 1-2-3 Proposed Conditions S.P. Sub (A-1)
 - iii) Units 1 - 2 Proposed Basement Floor Plan (A-2);
 - iv) Units 1 - 2 Proposed First Floor Plan (A-3);
 - v) Units 1 - 2 Proposed Second Floor Plan (A-4);
 - vi) Units 1 - 2 Roof Plan (A-5);
 - vii) Units 1 - 2 Proposed Elevations (Right and Front) (A-6);
 - viii) Units 1 - 2 Proposed Elevations (Left and Rear) (A-7);
 - ix) Unit 3 Proposed Basement & First Floor Plans (A-8);
 - x) Unit 3 Proposed Second Floor & Roof Floor Plans (A-9);
 - xi) Unit 3 Proposed Front & Right Side Elevations (A-10);
 - xii) Unit 3 Proposed Left Side & Rear Elevations (A-11);
 - xiii) Unit 1 - 2 Proposed Section A-A (A-13);
 - xiv) Unit 3 Proposed Section B-B (A-14);
 - xv) Units 1 - 2 Existing Basement & First Floor Plans (EX-1);
 - xvi) Units 1 - 2 Existing Second Floor & Roof Plans (EX-2);
 - xvii) Units 1 - 2 Existing Elevations (EX-3).
 - xviii) Landscape Plan (LA-1).
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for storm water 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 Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
3. 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.
4. Prior to the issuance of any Building Permits, the petitioner shall provide a final Landscape Plan for review and approval by the Director of Planning and Development. This plan shall

include fencing and/or year-round vegetative screening, of at least five feet in height, along the southern property line.

5. 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 rodent control during construction.
 - f. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
 - g. The CMP shall also address the following:
 - i. location(s) of a staging site for construction equipment and parking for construction workers vehicles;
 - ii. identification of building materials;
 - iii. phasing of the project with anticipated completion dates and milestones;
 - iv. safety precautions;
 - v. anticipated dewatering during construction;
 - vi. site safety and stability;
 - vii. impacts on abutting properties.
6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - b. Recorded a certified copy of this order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.

- c. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - 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. Filed a final Landscape Plan to the Director of Planning and Development for review and approval.
 - f. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
7. No Final Inspection and/or Occupancy Permit for the buildings 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. 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.
 - c. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - d. 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, final landscape features and fencing.
8. Notwithstanding the provisions of Condition #7 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.