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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: July 1, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Mark J. Lanza, attorney for the applicant
Rodney V. Farnsworth III, applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to establish an accessory apartment in an existing two-family dwelling

Applicant: Rodney Farnsworth	
Site: 159-161 Edinboro Street	SBL: 21023 0018
Zoning: MR1	Lot Area: 17,496 square feet
Current use: Two-family dwelling	Proposed use: Two-family with accessory apartment

BACKGROUND:

The property at 159-161 Edinboro Street, located in the MR1 district, is improved with a structure built circa 1900 as a single family dwelling, which was later converted to a two-family dwelling in 1989 by building permit. There is a detached garage structure on site, as well as an attached garage which was added in 1989 as well. A building permit was issued in 1990 to finish the basement to include two baths and five bedrooms. The applicant appears to have created a third unit in the basement with three bedrooms, two baths, a living room and a kitchen. Newton Inspectional Services issued a notice of violation in September 2013 for an illegal accessory apartment. The applicant appealed the enforcement to the Zoning Board of Appeals, who upheld the ISD enforcement. The issue was taken to Land Court, where the judge required the Applicant to file for a special permit for the apartment. The Applicant seeks to legalize the existing basement apartment through a special permit, convert it into a one-bedroom unit, and to give two of the bedroom spaces back to the main dwelling.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Mark J. Lanza, attorney, dated 5/23/2014
- Parking Plan, prepared by Ronald F. Jarek, architect, dated 9/16/2013

- Existing Accessory Apartment Plan, prepared by Ronald F. Jarek, architect, dated 9/16/2013
- Proposed Accessory Apartment Plan, prepared by Ronald F. Jarek, architect, dated 9/16/2013

ADMINISTRATIVE DETERMINATIONS:

1. The existing two-family structure is located in an MR1 district. Per Section 30-9(h), a special permit is required to create an accessory apartment in the MR1 district.
2. Table 30-8 requires a lot have at least 8,000 square feet for an accessory apartment. The applicant's lot has 17,496 square feet.
3. Table 30-8 requires that a building housing an accessory apartment have at least 2,600 square feet. The applicant has 2,686 square feet on the main floors, and an additional 2,198 square feet in the basement.
4. Section 30-9(h)(1)(a) requires that when there is an accessory apartment within a two family dwelling, one of the units must be occupied by the owner of the property. The owner of the property intends to maintain residency in the main dwelling.
5. Section 30-9(h)(1)(b) requires a two-family dwelling to have been constructed at least ten years prior to the date of application for the permit for the accessory apartment. The dwelling was built circa 1900 and thus meets the requirement.
6. The proposed accessory unit must be greater than the minimum of 250 square feet, and less than the maximum of 1,200 square feet required by the ordinance per Section 30-9(h)(1)(c). The proposed apartment is approximately 1,064 square feet.
7. Any exterior alterations required to meet applicable building, fire or health codes are permitted, per section 30-9(h)(1)(d).
8. There are no other existing or proposed accessory apartments on the lot, per section 30-9(h)(1)(f).
9. No lodgers are allowed in any unit, per section 30-9(h)(1)(g).
10. Sections 30-9(h), 30-19(d)(19) and 30-19(g) require two parking stalls for each dwelling unit, and one stall for the accessory unit. The applicant has an attached two-car garage, as well as a detached two-car garage. There are also six surface parking spaces, for a total of ten available parking stalls on site, exceeding the five required by the Ordinance.
11. The accessory apartment must comply with all applicable building, fire and health codes, per section 30-9(h)(1)(i).

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	17,496 square feet	No change
Frontage	70 feet	110 feet	No change
Lot size required for an accessory apartment	8,000 square feet	17,496 square feet	No change
Building size required for an accessory apartment	2,600 square feet	2,686 square feet (not including basement)	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§30-9(h)	Creation of an accessory apartment in a two-family dwelling in the MR1 district	S.P. per §30-24