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James Freas
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PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: September 16, 2014
TO: Land Use Committee of the Board of Aldermen
FROM: James, 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/working session.

PETITION #318-13(3)

159-161 Edinboro Street

Request for Special Permit/Site Plan Approval to allow an accessory apartment in a nonconforming two-family dwelling.

The Land Use Committee (Committee) held a public hearing on July 29, 2014. The Planning Department has received the following information in response to questions raised at the public hearing.

• **Is the Existing Structure Considered a Two-Family Structure**

The existing structures on the site were built in accordance with the building permit plans approved by the Inspectional Services Department in 1989. At that time, the Zoning Ordinance did not explicitly require a common wall and common roof connector in defining of a two-family structure. For these reasons, the structure is considered a nonconforming two-family dwelling, in which an accessory apartment is allowed by special permit. Planning staff consulted with the Inspectional Services Department to ensure that this issue would not arise if the petitioner applies for a building permit.



- **Building Code Concerns**

The Planning Department consulted the Zoning Enforcement Agent regarding the issue of egress from the proposed accessory structure. The Zoning Agent's concern is that the egress from the proposed accessory apartment goes through a common area, up a set up stairs, and through the garage. The Zoning Enforcement Agent has a number of concerns with this egress, including access through multiple spaces and the lack of an egress door from the garage. The Zoning Enforcement Agent also raised concerns about the height of the window wells in the basement. Finally, the Plans examiner may request an updated land survey, as the survey presented by the petitioner for the special permit was completed in 1989. These issues are correctable and will need to be addressed before the Inspectional Services Department can issue a building permit. However, the Planning Department does not believe that the building code issues presented affect the appropriateness of the land use.

- **Proof of Residency**

The petitioner submitted an affidavit identifying various types of registrations at the subject property, as a proof of residency (**ATTACHMENT A**). As of the date of this memo, the City's Law Department has not had an opportunity to review the affidavit.

Recommendation

The petition appears to be complete, subject to the adequacy of the proof of residence. If the proof of residency is sufficient, the Planning Department would recommend Approval with Conditions.

COMMONWEALTH OF MASSACHUSETTS
CITY OF NEWTON
BOARD OF ALDERMEN

Petition No. 318-13 (3)

_____)
RE: Application of)
Rodney Farnsworth III)
for a Special Permit)
_____)

RECEIVED
Newton City Clerk
2014 SEP 12 AM 11:06
David A. O'Shea, Clerk
Newton, MA 02459

AFFIDAVIT OF RODNEY FARNSWORTH III

I, Rodney Farnsworth III, after being duly sworn, upon my oath, depose and state as follows:

1. My name is Rodney Farnsworth III. I reside at 161 Edinboro Street in the Newtonville Section of Newton, Massachusetts. I have resided there continuously since 1992.

2. I have personally paid real estate taxes to the City of Newton City (in an amount to soon exceed the price of my house), at the subject address for the last 24 years.

3. I have personally secured numerous building permits, in my own name, for construction and improvements to my residence at 161 Edinboro Street, over the past 22 years.

4. My vehicles have been continuously registered and garaged in the City of Newton, at the subject address, for the last 22 years. Present vehicular registrations include a Lexus LS and a Dodge Ram Pickup Truck, at the subject address.

5. I have paid Excise taxes on my vehicles that have been garaged in the City of Newton, continuously for the last 22

years.

6. For the past 22 years, I have made continuous payments of excise taxes to the City of Newton on dozens of boats and trailers. I estimate that I have probably paid 200 excise tax bills to the City of Newton, including every year for the past 22 years, for numerous boats and trailers. In just the last 12 months, I estimate that my accountant paid more than two dozen municipal fees for boats and trailers, listed as billable at the subject address.

7. My driver's license is at the subject address.

8. My Massachusetts Construction Supervisor's license is at the subject address

9. My Massachusetts Real Estate Broker's License is at the subject address.

10. My Massachusetts Gastite fitters licensed is at the subject address.

11. My registration of my Lexus LS motor vehicle is garaged at the subject address (excise tax paid to City of Newton).

12. My registration of my Dodge Ram Pick Up Truck is listed as garaged at the subject address (excise tax paid to City of Newton).

13. Between one and two dozen boats and trailers are presently registered at the subject address.

14. My Homeland Security ID is issued at subject address, vetted by the FBI, CIA, NSA and US Homeland Security for all listed security clearances on which my residence listed at the subject address.

15. I am licensed as a USCG Master (captain 149 passenger limit) at the subject address.

16. My Merchant Marine Reservist, on 24 hour call, is listed at the subject address.

17. My US Passport is listed at the subject address.

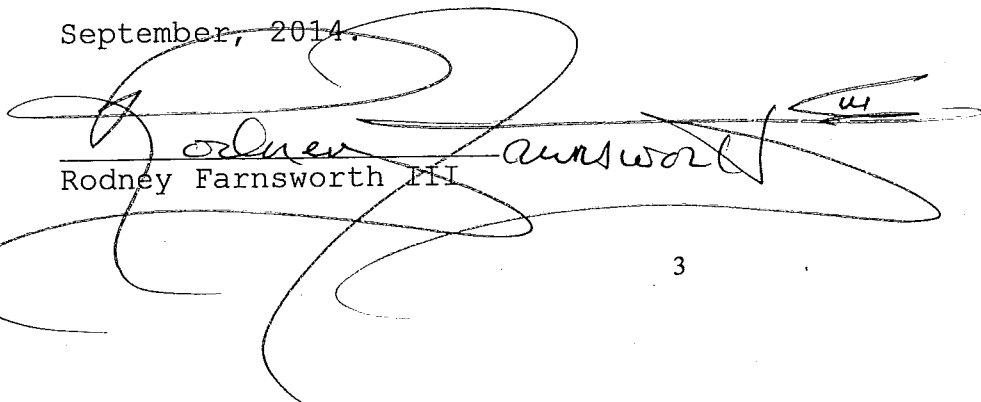
18. Every utility bill for utility services at the subject property for the last 22 years, has been paid by me, from my personal bank account including all heat/gas, electric, phone, cable TV and internet. I estimated that over 1,300 utility bills have been paid by me at the subject address.

19. Approximately 95% of my mail (estimated at 10,000 pieces per year) is delivered to the subject address.

20. I intend to continue to occupy 161 Edinboro Street, Newton, Massachusetts as my primary place of residence.

By making this affidavit and by my actions and omissions, I do not waive or relinquish any of my rights.

Singed under the penalties of perjury this 12th day of September, 2014.


Rodney Farnsworth III

9/12/14