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ZONING REVIEW MEMORANDUM

Date: September 13, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner

Cc: Ten Pillion LLC, Applicant
Terrence Morris, Attorney
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: **Request for a special permit to allow two attached dwellings, to waive certain dimensional requirements and to allow parking and a driveway within a setback and to amend Variance #99442**

Applicant: Ten Pillion LLC	
Site: 10 Pillion Court	SBL: 22007 0046
Zoning: MR1	Lot Area: 10,559 square feet
Current use: Single family dwelling	Proposed use: Two attached dwellings

BACKGROUND:

The property at 10 Pillion Court consists of 10,559 square feet and is improved with a single-family residence constructed in 1890 in the MR1 zoning district. The lot is a legally nonconforming back lot, created in 1951 by a variance which subdivided one lot on Newtonville Avenue into the present four lots. All the dwellings on each of the four lots existed at the time of the subdivision. The property is accessed by a ten-foot wide easement right of way serving the subject property and the front lot at 266-268 Newtonville Avenue. There is also a ten-foot wide city easement on the eastern boundary with Cabot Playground. The petitioner submitted plans to Inspectional Services for a building permit for a by-right two-family dwelling, but it was determined that the design of the building did not meet the definition of a detached two-family dwelling per section 1.5.4, and was therefore an attached dwelling, which requires a special permit. The petitioner proposes to construct an addition to the existing dwelling consisting of a second dwelling unit, creating two attached dwellings. To construct the additional unit as proposed, the applicant requires relief from several of the dimensional and parking requirements for attached dwellings.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, dated 7/3/2018
- Site Plan, signed and stamped by Edmond Spruhan, surveyor, dated 6/9/2017
- Architectural Plans, signed and stamped by Jai Singh Khalsa, architect, dated 7/5/2017

ADMINISTRATIVE DETERMINATIONS:

1. Prior to 1951, the subject lot was part of one large parcel of over 30,000 square feet with four existing separate dwellings, two . Variance #99442 was issued in 1951 granting exceptions to lot area and setbacks. It appears that while the subject property was shown on the subdivision plan associated with the variance, the subject property did not require any relief, as lot width was required at that time, and not lot frontage. The parcel met all the dimensional requirements of the Zoning Ordinance at the time it was created and appears to have been a by-product of the variance decision. However, in the description of the use proposed by the variance, it was stated that the uses were to “continue as at present.” At the time of the issuance of the variance, the property had only a single-family dwelling, as evidenced by a 1951 building permit in the Inspectional Services files. The City Solicitor has interpreted Variance #99442 to require an amendment to allow a change from a single-family dwelling use to attached dwellings.
2. The applicant proposes to construct a second dwelling unit attached to the existing single-family residence to create two attached dwellings, as defined in Section 1.5.1.C.2. Per Section 3.4.1, a special permit is required to construct single-family attached dwellings in the MR1 zoning district.
3. Section 3.2.4 of the Zoning Ordinance sets forth the dimensional requirements for Single Family Attached Dwellings in the MR1 zoning district. There is a provision in this section that enables the City Council to grant exceptions to the dimensional standards if it is found that 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 the protection of environmental features. The applicant requires several exceptions utilizing this provision.
4. The existing lot has 10,559 square feet of lot area, where Section 3.2.4 requires 15,000 square feet of lot area to construct attached dwellings in the MR1 zoning district. The petitioner requires an exception to the required lot area of 15,000 square feet.
5. Section 3.2.4 requires 80 feet of frontage for single-family attached dwellings. The existing lot has ten feet of frontage on Newtonville Avenue, and 55 feet of width along the rear lot line of the front lot from which it was carved, as was allowed at the time of creation, for a total of approximately 65 feet. While a detached two-family dwelling would be allowed by right on this lot with legally nonconforming frontage, the Commissioner of Inspectional Services has determined that the proposed change of use to a special permit use requires that the insufficient frontage seeks relief.

The petitioner requires relief for the 65 feet of frontage, where 80 feet is required per section 3.2.4.

6. The petitioner intends to maintain the existing dwelling and add a second unit to the rear. The existing dwelling is 12.2 feet from the rear of the lot in front of it, which acts as the front lot line in the case of back lots. Section 3.2.4 requires a 25 foot front setback for attached single family dwellings. The petitioner requires a special permit for the 12.2 foot front setback.
7. The proposed second unit additions create a side setback of 8.7 feet. This project was designed as a detached two-family dwelling, meeting the 7.5 foot side setback requirement. However, the side setback requirement for an attached single-family dwelling is 25 feet per section 3.2.4. The petitioner requires an exception to the side setback regulation of 25 feet to allow for a 8.7-foot and 10-foot side setbacks.
8. Per Section 3.2.4 the maximum lot coverage allowed in an attached dwelling project is 25%. The proposed lot coverage after construction of the second unit is 25.9%, which exceeds the maximum allowed. The applicant requires an exception to the maximum lot coverage of 25%.
9. Per section 6.2.3.B.2, no driveway associated with attached dwellings may locate within ten feet of a side or rear lot line. The petitioner proposes to locate a drive along the western side lot line. A waiver from this provision is required.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	10,559 square feet	No change
Frontage	80 feet	65 feet	No change
Setbacks			
• Front	25 feet	12.2 feet	No change
• Side	25 feet	14.8 feet*	10 feet
• Rear	25 feet	202.5 feet	111.6 feet
Building Height	36 feet	25.6 feet	32.7 feet
Max Number of Stories	1.5	2.5	2.5
Lot Coverage	25%	9.4%	29.8%
Open Space	50%	<20%	55.7%
Lot Area Per Unit	4,000 square feet	10,559 square feet	5,279.5 square feet

*As a single-family dwelling in the MR1 district, the existing structure meets the side setback requirement of 7.5 feet, but does not meet the side setback requirement for the proposed Attached Single-Family Dwelling use.

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Amend Variance #99442	
§3.4.1	To allow attached single-family dwellings in an MR1 zoning district	S.P. per §7.3.3
§3.2.4	To reduce the lot area requirement	S.P. per §7.3.3
§3.2.4	To reduce the frontage requirement	S.P. per §7.3.3
§3.2.4	To reduce the side setback requirement	S.P. per §7.3.3
§3.2.4	To reduce the front setback requirement	S.P. per §7.3.3
§3.2.4	To reduce the lot coverage requirement	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway to locate along the side lot line	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

10. Two (2) copies of the completed Special Permit Application (signed by property owner)
11. Filing Fee (see Special Permit Application)
12. Two (2) copies of the Zoning Review Memorandum
13. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
14. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
15. One (1) copy of any previous special permits or variances on the property (as applicable)
16. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
17. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N