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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: March 22, 2019
MEETING DATE: March 26, 2019
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #497-18

10 Pillion Court

Special Permit/Site Plan Approval to allow two Single-Family Attached Dwellings with waivers to the dimensional standards

The Land Use Committee opened a public hearing on this petition on Tuesday, November 8, 2018. The Committee listened to public comment but did not hear a presentation from either the Planning Department or from the petitioner. This memo reflects revised materials submitted by the petitioner as of March 21, 2019, but staff believes the Working Session should include the analysis in the Public Hearing Memorandum, dated January November 2, 2018.

Petition Summary

The petitioner is seeking to construct a 2.5-story addition to the rear of the existing single-family dwelling. The design of the structure does not meet the definition of a two-family dwelling; therefore, the structure is classified as a Single-Family Attached Dwelling, a building type that requires a special permit. The petitioner also requires an amendment to Variance #99442 from the Zoning Board of Appeals (ZBA) to create the second dwelling unit. The petitioner has chosen to pursue the special permit, before filing an application to amend Variance #99442.

Plan Modifications

The petitioner submitted revised plans that remove the two adjacent garages in favor of a carport with living space above. The plans also indicate that the cupola has been removed from the half-story. Staff

templates and requests that the templates be updated to show vehicles parked in the stalls to demonstrate sufficient space for maneuvering.

Engineering Review

Associate City Engineer, John Daghlian, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment A**). Mr. Daghlian expressed concern over the proximity of the addition to the City's drainage easement that contains a culvert and Laundry Brook. In short, the siting may affect the structural integrity and future maintenance of the culvert. As such, Mr. Daghlian suggests the petitioner provide more information as to the location of the culvert with respect to the addition. Additionally, Mr. Daghlian notes that two vehicles will park on a portion of the City's drainage easement. The petitioner should submit an analysis from a structural or geotechnical engineer to determine whether the culvert can support the weight of the vehicles. If approved, the petitioner will require a license from the City, in a form approved by the City of Newton Law Department, to park on the easement.

Single-Family Attached Dwellings

Single-Family Attached Dwellings are allowed by special permit in the MR-1 zone and are subject to unique dimensional standards that are waivable via special permit. The criteria for granting such waivers is that "literal compliance with the dimensional standards of Single-Family Attached Dwellings 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." The petitioner is seeking waivers to the following dimensional standards:

- frontage;
- lot area;
- side setback;
- front setback;
- lot coverage; and
- location of a driveway within ten feet of a side lot line.

The Planning Department recognizes that the lot has a narrow shape that restricts the building envelope, making it difficult to comply with the dimensional standards of Single-Family Attached Dwellings and that this envelope is further restricted by the City's easement. However, staff does not believe the site is an appropriate location for the Single-Family Attached Dwelling building type. In addition to waiving several dimensional standards, attaching dwellings to each other results in a long structure that should have a relationship with a street rather than with a side lot line. Moreover, the site's access is limited to a ten-foot wide driveway that terminates towards the front of the site. This lack of access results in an unusual parking design that requires unique maneuvers and parking on the City's easement. For these reasons, staff does not support the waivers to allow the proposed structure.

The petitioner could choose to construct a two-family dwelling which would result in a similar structure. However, the design would have to change because the Newton Zoning Ordinance (Ordinance) requires that two-family structures are "either divided vertically so that the dwelling units are side by side but

separated by a shared wall extending the entire maximum height of one or both units, and/or is divided horizontally so that one dwelling unit is above another". The Department of Inspectional Services requires this shared wall to separate habitable space rather than garage space. A design meeting this definition and meeting the dimensional standards of a two-family detached dwelling would be allowed as of right, provided the petitioner obtained an amendment to Variance #99442 to create the second dwelling unit.

ATTACHMENTS:

Attachment A: Engineering Review Memorandum, dated March 21, 2019

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 10 Pillion Court

Date: March 21, 2019

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Ted Jerdee, Director of Utilities
Nadia Khan, Committee Clerk
Neil Cronin, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Proposed Plot Plan
10 Pillion Court
Newton, MA
Prepared by: Peter Nolan & Associates LLC
Dated: 2/25/19*

Executive Summary:

This application entails renovation of the existing dwelling and construction of a second unit attached by a second floor for each unit. The plans do not show any proposed municipal utilities nor stormwater drainage improvements both of which are required for these types of filings. No proposed grades are shown as required and no existing utilities are indicated. The plan is not stamped by a Massachusetts Professional Engineer.

The site is a long wedge shape parcel with relatively flat topography, having a total area of approximately 10,000 square feet. Along the eastern property line is a City drainage easement in which a 5-foot-deep by 10-foot-wide box culvert contains Laundry Brook. The new building will be constructed directly next to the easement, Engineering and the Utilities Division have concerns about the siting the new structure so close to the culvert.

One concern is primarily for stability and structural integrity of the culvert when excavating within very close proximity of the culvert. Although the easement is shown, the actual location of the box culvert is depicted on the plan. Another concern is for future access for maintenance and replacement of the culvert. If the culvert needs replacement it will be very difficult if not impossible due to the proposed placement of the dwelling foundation. The applicant will have to retain a qualified contractor to scope and delineate the limits of the culvert on the site plan before any further consideration is given for this application.

Additionally, the plan shows two parking stalls encroaching onto the City's drainage easement. The applicant will have obtained permission from the Utilities Division to allow parking over the culvert. The applicant will have to retain a structural and or a geotechnical engineer to determine the additional loading that the culvert will experience if the parking stalls are permitted. Ultimately, a License Agreement will be required between the City and the property owner to allow any parking, paved surface over the culvert and within the easement.

A stormwater analysis is needed in accordance to the DPW's Stormwater Management Policy as well as an Operations and Maintenance Plan.

A turning template plan was submitted however it needs to be revised to show the vehicles parked in the stalls while the vehicle maneuvering into a stall.

Finally, where will snow plowed on the site be stored? The site is very narrow, and a substantial amount of impervious surfaces are proposed with little to no grassy area to store snow

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.
3. The plans need siltation control to prevent migration of soil off the site and onto neighboring and City property.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the renovated dwelling shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. For water quality issues a fire hydrant will be required at the end of the proposed water main. This hydrant will be utilized for flushing out the main as required.
3. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
4. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*

5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. ***If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.***

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.