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#10-12



Bk: 58921 Pg: 175 Doc: DECIS
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CITY OF NEWTON

IN BOARD OF ALDERMEN

March 19, 2012

ORDERED:

That the Board, 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to relocate an existing two-family dwelling and construct a new structure containing two additional attached dwelling units for a total of four attached dwellings in two structures as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

RECEIVED
Newton City Clerk
2012 MAR 21 PM 5:29
David A. Olsin, City Clerk
Newton, MA 02459

BK 20243-134

1. Four single-family attached dwelling units in two buildings are appropriate for the following reasons
 - a. The site is located in a neighborhood of predominantly multi-family residential uses;
 - b. There will be no nuisance to vehicles or pedestrians as a result of this petition since parking will be provided with off-street accommodations and the sidewalk along Elm Street will be upgraded by the petitioner from its deteriorating condition.
2. A waiver for side setbacks is appropriate for this site because literal compliance with side setbacks is impractical due to the long and narrow shape of the lot and the orientation of the existing building. The petitioner will mitigate the effects of this encroachment with the proposed landscaping.
3. Lot coverage of 25.5%, where 25% is allowed by right is appropriate because the petitioner has incorporated an existing historic structure into the site design, thereby saving and rehabilitating this building, and the increased lot coverage is necessary to support the proposed rehabilitation of an historic structure.
4. A driveway closer than ten feet from the side lot line is appropriate since this condition is pre-existing and allowing the driveway to remain in this location will preserve the open front lawn area and a mature Japanese maple tree. Also, the proposal is to eliminate one of the two curb cuts on the property, thereby improving pedestrian and motorist safety.
5. A dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline is appropriate because it is part of an articulated plan to compliment the Queen Anne architecture of the historic structure on the site.
6. The design and materials of the proposed structure have been approved by the Newton Historical Commission.

Property Address: 37 Elm Street, Newton

Torrence Morris
57 Elm Rd.
Newton, MA 02460

A True Copy
Attest

City Clerk of Newton, Mass.

7. The Board finds that the location and configuration of structures is appropriate and in keeping with the historic neighborhood and that the petitioner is preserving the existing historic structure which will be a benefit to the neighborhood and will not adversely affect abutters or the immediate neighborhood.

PETITION NUMBER: 10-12

PETITIONER: D-T Arco LLC/Ieraci Realty Trust

LOCATION: 37 Elm Street, Section 33, Block 23, Lot 20 containing approximately 25,000 square feet of land

OWNER: Ieraci Frank Tr.
c/o Maria Armstrong

ADDRESS OF OWNER: 34 Lyme Road, West Newton, MA 02456

TO BE USED FOR: Four attached dwellings in two two-unit buildings

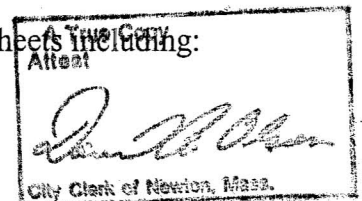
CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §30-9(b)(5) to allow four attached dwellings in two buildings; §30-15, Table 1 and 30-9(b)(5)(a) and (b) to allow side setbacks of 17.1 and 17.4 feet where 25 feet is required, for lot coverage of 25.5% where 25% is allowed, and for a driveway closer than 10 feet from the side lot line; § 30-15(t)(1-4) to allow a dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline.

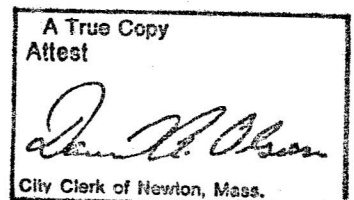
ZONING: Multi-Residence 1 District

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 the plans listed below:
 - a. "Topographic Site Plan Showing Proposed Conditions at 37 Elm Street, Newton, MA," by VTP Associates, dated February 27, 2012, signed and stamped by Joseph R. Porter, Professional Land Surveyor
 - b. "Planting Plan, 37 Elm Street, Newton, MA", by Rico Associates, dated February 7, 2012
 - c. "Elm Street Residences-Design Concept," consisting of 11 sheets including:



- i. East Elevation of Front Building, dated 2/27/2012
 - ii. North Elevation of Front Building, dated 2/27/2012
 - iii. West Elevation of Front Building, dated 2/27/2012
 - iv. South Elevation of Front Building, dated 2/27/2012
 - v. Floor Plans Units #1 and #2 Main Floor and Upper Floor, dated 2/23/2012
 - vi. Floor Plans Units #1 and #2 Attic, dated 2/23/2012
 - vii. Front Elevation, Rear Building, dated 12/13/2011
 - viii. South Elevation, Rear Building, dated 12/13/2011
 - ix. West Elevation, Rear Building, dated 12/22/2011
 - x. Floor Plans Main Floor Plan, Units #3 and #4, dated 2/23/2012
 - xi. Floor Plans Upper Floor Plan, Units #3 and #4, dated 2/23/2012
 - xii. Floor Plans Attic Floor Plan, Units #3 and #4, dated 2/23/2012
2. The petitioner shall underground all utilities serving the subject property.
3. The petitioner and future condominium association shall maintain the fence along the southern property line for as long as the use authorized by the special permit continues at this site.
4. The petitioner will install the Arborvitae screening shown in the landscape plan on the southern property line as soon as feasible after it takes title to the property and prior to the issuance of any building permit.
5. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. submitted a Construction Management Plan for review and approval by the Director of Planning and Development and the Engineering Division of the Department of Public Works.
 - b. submitted final engineering plans for review and approval by the City Engineer, and the Director of Planning and Development which show the closing of one curb cut and the replacement of the bituminous sidewalk and concrete curbing along Elm Street.
 - c. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - d. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - e. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
6. No occupancy permit for the use 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 and registered engineer certifying compliance with Condition #1.



- b. submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
7. Notwithstanding the provisions of Condition #1 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building 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.

Under Suspension of Rules
 Readings Waived and Approved
 24 yeas 0 nays

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on March 21, 2012. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:




(SGD) DAVID A. OLSON, City Clerk
 Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 3/21 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
 Clerk of the Board of Aldermen

A True Copy
 Attest

 City Clerk of Newton, Mass.