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Candace Havens
Director

WORKING SESSION MEMORANDUM

Date: May 20, 2014

To: Land Use Committee of the Board of Aldermen

From: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

Cc: Petitioner

In response to questions raised at the Land Use Committee public hearing 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 the staff analysis previously provided at the public hearing/working session.

PETITION #141-13(3)

74 Newtonville Avenue

A request to develop retaining walls greater than four feet in height and to locate two parking spaces in the front yard setback.

The Land Use Committee held a public hearing on May 12, 2013. The public hearing was held open so that the petitioner could provide supplemental information.

Certificate of Occupancy and Enforcement. At the working session, the Committee asked staff to review the status of the Certificate of Occupancy and any enforcement activities for the subject property. Per records from the Inspectional Services Department (ISD), the residential structure has been legally occupied since 1972. While the ISD's property file for the subject parcel does not contain a copy of a Certificate of Occupancy, this is not uncommon for older homes. According to the ISD, a Certificate of Occupancy is not always issued for every building permit. It is more common for ISD to complete a Final Inspection to close open building permit. In terms of enforcement actions, ISD has issued two citations to the property. The petitioner was cited once in 2012 for a code violation concerning the construction of retaining walls in combination exceeding four feet in height in the rear setback and again in 2013 for property damage caused on adjacent properties. According to the ISD, all the enforcement actions have been closed.



Property Damage on Adjacent Properties. Based on the concerns raised by an abutter and the Committee, it was not clear whether the rear fence has been repaired to the satisfaction of the abutting property owners. To clarify this concern, the petitioner provided an email chain between Patricia Hinchey, President of the Riley Carriage House Condominium Association, and the petitioner that indicates the condominium association is satisfied with the fence repairs and the cleaning out of downed timber (**ATTACHMENT A**). During a site visit, staff confirmed that the damaged fence has been repaired.

Recommendation. Based on these submittals, the Planning Department recommends **approval with conditions**.

ATTACHMENTS

ATTACHMENT A: Email Chain between Patricia Hinchey and Petitioner

Daniel Sexton

From: nitzan gordon <nitzan_gordon@yahoo.com>
Sent: Wednesday, May 14, 2014 8:37 PM
To: Daniel Sexton
Subject: Fw: Fence Repair and Logs Removal

On Sunday, April 20, 2014 9:05 AM, Nitzan Gordon <nitzan_gordon@yahoo.com> wrote:
You too. Hope you are feeling better.

Sent from my iPhone

On Apr 20, 2014, at 8:22 AM, Patricia Hinchey <pahinchey@icloud.com> wrote:

Thank you so much for the clean out of the logs and fence replacement. Looks good. Happy Easter!

Sent from my iPhone

On Apr 17, 2014, at 10:20 AM, nitzan gordon <nitzan_gordon@yahoo.com> wrote:

Oh no problem, feel better!!

On Thursday, April 17, 2014 9:20 AM, Patricia Hinchey <pahinchey@icloud.com> wrote:

I just had emergency oral surgery on Tuesday so I haven't been able to see the repairs.
Sorry! I'll try to get there this weekend. Thanks !

Sent from my iPhone

On Apr 13, 2014, at 2:27 PM, nitzan gordon <nitzan_gordon@yahoo.com> wrote:

Hi Patricia,

I just wanted to let you know that all the logs left by us were removed from your property and the fence is now repaired as we discussed.

I know you mentioned you will be away until Tuesday. Feel free to send someone else over to review or you can take a look when you are back. Enjoy the rest of the weekend, and let me know what you decide.

Thanks,
Nitzan

On Sunday, April 13, 2014 8:55 AM, nitzan gordon <nitzan_gordon@yahoo.com> wrote:

Hi Patricia,

We are starting the fence repair and logs removal today, I'll let you know as the day progress if this will be completed today. I just wanted to keep you posted as promised.

Thanks,
Nitzan

On Monday, April 7, 2014 5:50 PM, Patricia Hinchey <pahinchey@icloud.com> wrote:

Done! See you at the fence line. Thanks again!

Sent from my iPad

On Apr 7, 2014, at 1:32 PM, nitzan gordon <nitzan_gordon@yahoo.com> wrote:

Thursday will be easier for me. How about 1PM on Thursday?

On Monday, April 7, 2014 10:54 AM, Patricia Hinchey <pahinchey@icloud.com> wrote:

Thanks Nitzan. I can meet anytime Tuesday from 12:00 on or Wed. after 1:00 or anytime Thursday.

Sent from my iPhone

On Apr 6, 2014, at 9:28 PM, nitzan gordon <nitzan_gordon@yahoo.com> wrote:

Hi Patricia,

i hope everything is well and that you survived this very long winter.

The weather is looking better and we were hoping to schedule the fence repair and logs disposal.

We contacted the contractor to make sure he has availability and would like to schedule a time to review the logs to be disposed so that we are all on the same page.

When will you like us to schedule the job? The contractor said he can do it as early as next weekend, but we'd like you to tell us when you would like us to schedule this for? We would like you or someone on your behalf to meet us before and show us the logs to be disposed as well as be available to come review the fence when it is repaired.

I'm not sure if you are back in Newton, I believe you mentioned you were away for the winter...

Anyway, let me know how you would like to proceed, and I'll schedule it accordingly.

Thanks,
Nitzan

On Sunday, December 22, 2013 1:43 PM, nitzan gordon
<nitzan_gordon@yahoo.com> wrote:

Hello Patricia,

We just received your letter and also heard your message just a few days ago since we were out of the country since Thanksgiving.

We are more than happy using email and phone for communication, we were just under the impression that you preferred letters.

Unfortunately the winter started and there is snow on the ground as well as the ground is relatively frozen, as soon as weather permits we will schedule a time for you to meet Extreme Fencing Solution at the site to discuss any questions you have and the materials to be used. We of course asked for a quote based on the current material of the rest of the fence. At that time we can identify the logs to be removed and disposed by us.

We will be in touch as soon as weather permits and we assure you the fence will be repaired to your satisfaction.

Happy holidays to you and yours,

Nitzan Gordon and Zion Yehoshua

