



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#564-18
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: February 22, 2019
MEETING DATE: February 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 #564-18

39 Herrick Road

Special Permit/Site Plan Approval to allow a three-story, multi-family structure, 35.5' in height containing nine dwelling units, to allow a reduction in the parking requirement to one stall per unit, to allow a retaining wall greater than four feet within the setback, to allow off-site parking, and to allow waivers to the requirements of parking facilities containing more than five stalls.

The Land Use Committee (The "Committee") opened the public hearing on this petition on Tuesday, January 8, 2019 due to statutory requirements. 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 February 21, 2019, but staff believes the Working Session should include analysis from the Public Hearing Memorandum, dated January 4, 2019.

The submitted plans indicate a portion of the driveway providing access from Herrick Road is on the adjacent property at 17-31 Herrick Road, and the plans show a retaining wall in excess of four feet within the setback of the adjacent property to allow for the driveway. The application did not include this lot (17-31 Herrick Road). As such, a supplemental application was submitted, and the item was docketed again. The petition will be both noticed and advertised again.

Plan Modifications

In the Public Hearing Memorandum, the Planning Department expressed concern over the orientation of the building because the structure presents towards the MBTA tracks and to the surface parking lot,

Staff approached the petitioner to alleviate the lack of green space and the Herrick Road curb cut by asking the petitioner to consider maintaining the license with the City to access the site and the nine parking stalls over the Cypress Street Municipal Lot for two-way traffic. This would allow the petitioner to install landscaping in place of the driveway, increasing open space. The petitioner will be required to update the license to cross over the Cypress Street Municipal Lot whether the Herrick Road curb cut is installed. In this scenario the updated license would include language requiring the petitioner to install the curb cut and the driveway from Herrick Road, should the City terminate the license. Such an agreement would improve the site design, but also afford the City flexibility should the need to terminate the license arise.

Public Footpath

The southern portion of the site was subject to a taking from the City in 1951 to allow for the creation of a ten-foot wide public footpath connecting the Cypress Street Municipal Lot to Herrick Road, and ultimately to the MBTA station. The property gains its frontage along this footpath, and as a result, the structure should have a ten-foot setback from the footpath. The proposed structure has a zero setback from the footpath, requiring a variance from the Zoning Board of Appeals.

In the Engineering Memorandum dated September 17, 2018, John Daghlian, Associate City Engineer, suggested that the public footpath be reconstructed out of stamped concrete, rather than pavers, and that the Engineering Division retain final review and approval of the lighting plan and the landscape plan for the footpath due to public safety concerns. Furthermore, should this petition be approved, the petitioner shall submit a Construction Management Plan (CMP) stating how the footpath will remain open to pedestrians during construction, and show an alternative, accessible route from the Cypress Street Municipal Lot to Herrick Road when the footpath is under construction.

Fair Housing & Housing for Seniors

The petitioner is proposing to reserve all nine units as age-restricted units, which runs counter to the Fair Housing Act. The Act does allow for exemptions, provided that the development meets certain criteria. Because this portion of the petition is unique, the Planning Department suggests that the petitioner appear before the City's Fair Housing Commission. The petitioner is working with Housing Division staff to appear before the Commission in the first week of March.

The Planning Department spoke with a representative from the Newton Council on Aging, who stated that senior housing should be located proximate to amenities, located within a walkable environment, and located within a building served by an elevator. The units should also be constructed to comply with universal design to allow for those with mobility issues. The Planning Department believes this petition satisfies those criteria, as the units will be served by an elevator and are located within a walkable, transit accessible neighborhood. The petitioner should provide more information as to how the units will be designed for seniors.

Utilities

The petitioner proposes to tie into the water and sewer lines within Herrick Road as part of the project. However, the petitioner requires approval from the City Council, specifically its Public Facilities Committee, to extend both lines to the site. The petitioner appeared before Public Facilities in 2003

to gain approval of the extensions, but the Order was neither signed nor recorded. As such, the petitioner shall apply to Public Facilities again to gain approval of the extensions.

In the Engineering Memorandum dated September 17, 2018, John Daghlian, Associate City Engineer, suggested the petitioner “loop” the water line from Herrick Road through the petitioner’s property and into the City’s water line in the Cypress Street Municipal Lot to “improve water quality and improve pressure in the system”. The petitioner has agreed to this, which will require the City accepting an easement from the petitioner to maintain the water line, once installed. This easement will also be subject to the review from the Public Facilities Committee.

Inclusionary Zoning

The petitioner submitted an Inclusionary Housing Plan and an Affirmative Fair Marketing and Resident Selection Plan. The petitioner is required to provide 15%, or one, of the units as an Inclusionary Unit. The Inclusionary Unit will be restricted to households earning up to 65 percent of Area Median Income (AMI) and will be a 1,304 square-foot, two-bedroom, two-bathroom unit. Staff has not yet completed review of the proposed Inclusionary Housing Plan and expect to provide an update at the Public Hearing.

Parking

The petitioner is seeking a reduction in the number of parking stalls required from two stalls per unit, to one stall per unit. Given the site’s location within Newton Centre, the proximity to the MBTA station, and the proposed use of the building, the Planning Department believes this is an appropriate amount of parking. However, staff suggests the petitioner implement a stronger Transportation Demand Management (TDM) Plan to disincentivize car ownership and encourage alternative transportation strategies to align with the transit oriented, walkable nature of the area.

The site is currently improved with an 18-stall surface parking facility that serves the multi-family dwelling located on the adjacent parcel at 17-31 Herrick Road. In the Public Hearing Memorandum, staff stated that because this parking would be removed, the petitioner also required a special permit to waive these stalls. However, the Commissioner of Inspectional Services has determined that these stalls are an amenity to the residents of 17-31 Herrick Road, and are not regulated by zoning. Therefore, a waiver is not required.