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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: July 7, 2017
MEETING DATE: July 11, 2017
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
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 #130-17

164 Highland Avenue

Request for Special Permit/Site Plan Approval to exceed the floor area ratio (FAR) from .19 to .28, where .27 is the maximum allowed by-right, allow a private garage of approximately 1,500 square feet accommodating six vehicles, where 700 square feet and a maximum of three vehicles is allowed by-right.

The Land Use Committee held public hearings on this petition on Tuesday, June 6, 2017 and Thursday, June 22nd. At the June 22nd meeting, the public hearing was closed, but the item was held. The item was held so that the petitioner could respond to concerns/questions that were raised at the public hearing by the Committee and public.

The petitioner has learned that due to safety reasons the lift cannot be operated with the garage doors open; therefore, the petitioner is comfortable with a condition requiring that the garage doors shall be closed when the lift is in operation. Also, the petitioner is comfortable with a condition prohibiting a commercial use on the property.

The Planning Department is unable to determine the decibel level the lift will generate. The City's Noise Ordinance states that, "The noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less." In this instance, the nearest lot line is the shared property line with the abutter at 156 Highland Avenue which is 12.8 feet from the proposed garage. If the Committee approves the petition, the staff suggests a condition requiring

the petitioner provide evidence of compliance with the City's Noise Ordinance prior to the issuance of a certificate of occupancy. Staff notes this condition is most commonly employed in conjunction to air conditioning condensers.

ATTACHMENTS:

Attachment A: Draft Council Order

CITY OF NEWTON
IN CITY COUNCIL

June 19, 2017

ORDERED:

That the City Council, 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 exceed the Floor Area Ratio (FAR) from .19 to .28, where .27 is the maximum allowed by-right and allow a private garage of 1,500 square feet accommodating six vehicles, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The proposed increase of FAR from .19 to .28, where .17 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as the additions are set back more than twice the required distance from the street and the additions match the architecture of the historic dwelling (§3.1.9 and §7.3.3).
2. The specific site is an appropriate location for a private garage of 1,500 square feet accommodating six three vehicles because 900 square feet of garage space and four vehicles are not visible from the street (§3.4.2.C.1 and §7.3.3.C.1).
3. The proposed residence and attached garage as developed and operated will not adversely affect the neighborhood as the additional garage space and vehicles will be stored underground (§7.3.3.C.2).
4. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).
5. Access to the site over streets in appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #130-17

PETITIONER: Robert Laughrea

LOCATION: 164 Highland Avenue, on land known as Section 24, Block 12, Lot 20, containing approximately 22,230 square feet of land

OWNER: Robert Laughrea

ADDRESS OF OWNER: 164 Highland Avenue
Newton, MA 02465

TO BE USED FOR: Single-Family dwelling with attached six car garage

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3.3, to construct a single family dwelling with an FAR exceeding the maximum allowed by-right; §3.4.2.C.1 and §7.3.3 to allow a private garage of 1,500 square feet accommodating six vehicles

ZONING: Single 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:
 - a. Proposed Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated April 21, 2017.
 - b. Architectural Plans and Elevations, signed and stamped by Alan J. Mayer, Registered Architect, dated April 12, 2017 consisting of seventeen (17) sheets:
 - i. A1-0 Existing Conditions, Basement Plan;
 - ii. A1-1 Existing Conditions, First Floor Plan;
 - iii. A1-2 Existing Conditions, Second Floor Plan;
 - iv. A1-2 Existing Conditions, Third Floor Plan;
 - v. A2-1 Existing Conditions, Existing Front Elevation;
 - vi. A2-2 Existing Conditions, Existing Side Elevation;
 - vii. A2-3 Existing Conditions, Existing Rear Elevation;
 - viii. A2-4 Existing Conditions, Existing Side Elevation;
 - ix. A3-0 Proposed Additions, Basement Plan;
 - x. A3-1 Proposed Additions, First Floor Plan;
 - xi. A3-2 Proposed Additions, Second Floor Plan;
 - xii. A3-3 Proposed Additions, Third Floor Plan;
 - xiii. A4-1 Proposed Additions, Proposed Front Elevation;
 - xiv. A4-2 Proposed Additions, Proposed Side Elevation;
 - xv. A4-3 Proposed Additions, Proposed Rear Elevation; and
 - xvi. A4-4 Proposed Additions, Proposed Side Elevation.

2. There shall be no commercial use on site and there shall be no commercial automobile license registered to this site.
3. When the lift is in operation, the garage doors shall be closed.
4. The six-car garage use approved by this Order shall terminate upon a change of ownership.
5. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
6. Prior to the issuance of any Building Permits, the petitioners shall submit a final Construction Management Plan (CMP) to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should shall include at a minimum:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
 - e. A plan for site access and traffic control.
 - f. A plan regulating the delivery of material to the site, including the staging and storage of construction vehicles.
 - g. A plan for rodent control during construction.
 - h. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
7. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

- c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - d. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - e. Submitted a landscape plan to the Director of Planning and Development.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
6. Notwithstanding the provisions of Condition #5 above, the Commissioner of Inspectional Services may issue one or more certificates of occupancy for all or portions of the buildings prior to the installation of final landscaping provided 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.