



Setti D. Warren
Mayor

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

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: June 24, 2016
MEETING DATE: June 28, 2016
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, 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 staff analysis previously provided at the public hearing.

PETITION #126-16

17 Malvern Terrace

Request for Special Permit/Site Plan Approval and Extension of a Non-Conforming Use modify an existing non-conforming two-family use and amend Special Permit #88702 to raze the existing buildings and rebuild the dwelling away from the floodplain and closer to the street.

The Land Use Committee (the "Committee") held a public hearing on June 14, 2016 that was held open so that the petitioner could respond to questions/concerns that were raised in the Planning Department's memorandum and at the public hearing by the Committee and the public.

This memo reflects issues raised at the June 14, 2016 public hearing and additional information submitted by the petitioner subsequent to that hearing.

Zoning Relief

The petitioner is seeking Special Permit/Site Plan Approval and Extension of a Non-Conforming Use modify an existing non-conforming two-family use and amend Special Permit #88702 to raze the existing buildings and rebuild the dwelling away from the floodplain.

Proposed Driveway Surface

The petitioner has submitted information regarding discussions with Conservation Commission and Engineering Department staff (which has been forwarded the Land Use Committee) as to whether the petitioner's proposed use of permeable pavers for the proposed driveway is appropriate. The submitted information indicates that Conservation and Engineering staff agreed that "pervious pavement or pavers with country drainage would satisfy both Conservation and Engineering" if there is "2 feet or more of separation to seasonal high groundwater."

Street Trees

A question has arisen regarding the status of a street tree located near the proposed driveway along the northern property line of site. This will be clarified at the next hearing.

Concern Raised at Public Hearing

The June 14, 2016 public hearing included a discussion as to the appropriateness and sufficiency of the existing vegetative screening along the northern property line adjacent to the proposed driveway. The Planning Department is concerned that the existing privet hedges and other various plantings do not provide adequate screening and that their viability during construction is uncertain. To address this concern, the attached draft order includes condition that the petitioner submit a final landscape plan that includes "appropriate, year-round vegetative screening along the entire length of the proposed driveway located adjacent to the northern property line" and that all plantings shown on the plan be "maintained in good condition."

ATTACHMENTS:

Attachment A: Draft Order

ATTACHMENT A

DRAFT- #126-16

CITY OF NEWTON

IN CITY COUNCIL

July 11, 2016

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL and the amendment of Special Permit #88702 to modify an existing nonconforming two-family use by razing the existing dwelling and outbuilding and rebuilding the dwelling away from the floodplain and closer to the street at 17 Malvern Terrace, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The extension of the nonconforming use and structure will not be substantially more detrimental than the existing nonconforming use and structure is to the neighborhood as the expanded structure will be in conformance with applicable dimensional requirements. (§3.4.1 and 7.8.2.C.2.)
2. The site is an appropriate location for the proposed expanded structure as it is located on a large lot and conforms with current Floor Area Ratio (FAR) requirements. (§7.3.3.C.1.)
3. The use as developed and operated will not adversely affect the neighborhood. All runoff will be retained on-site and the Conservation Commission has reviewed and approved the site plan. (§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 is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

PETITION NUMBER: #126-16

PETITIONER: Charles B. Cossaboom

LOCATION: 17 Malvern Terrace, Section 41, Block 26, Lot 17, containing approximately 13,970 square feet of land

OWNER: Charles B. Cossaboom

ADDRESS OF OWNER: 17 Malvern Terrace
Newton, MA 02466

TO BE USED FOR: Two-Family Residence

CONSTRUCTION: Wood Frame

EXPLANATORY NOTES: §3.4.1. and §7.8.2.C.2., to expand a nonconforming structure;
amend Special Permit #88702.

ZONING: Single Residence 3 (SR-3) 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. A plan entitled "Site Plan of Land in Newton, MA, 17 Malvern Terrace," prepared by Everett M. Brooks Co., dated March 21, 2016, as revised through May 17, 2016, signed and stamped by Michael S. Kosmo, Registered Professional Engineer.
 - b. A set of architectural plans entitled "Cossaboom Residence Newton, Ma.," prepared by Entasis PC, Jay C. Walter AIA, dated June 1, 2016, signed and stamped by Jay C. Walter, Registered Architect:
 - i) Site Plan/General Notes (A-1);
 - ii) First Floor Plan (A-2);
 - iii) Second Floor Plan (A-3);
 - iv) Basement Plans (A-4);
 - v) Exterior Elevations (A-5).
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
3. 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.
4. Prior to the issuance of any Building Permits, the petitioner shall provide a final Landscape Plan for review and approval by the Director of Planning and Development. This final

Landscape Plan shall show appropriate, year-round vegetative screening along the entire length of the proposed driveway located adjacent to the northern property line.

5. Prior to the issuance of any Building Permit, the petitioner 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 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 rodent control during construction.
 - f. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - b. 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.
 - c. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - d. 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.
 - e. Filed a final Landscape Plan to the Director of Planning and Development for review and approval.
 - f. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

7. No Final Inspection and/or Occupancy Permit for the buildings 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 or engineer certifying compliance with Condition #1.
 - b. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Board Order have been constructed to the standards of the City of Newton Engineering Department.
 - c. 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.
 - d. Submitted to the Director of Planning and Development a statement from the City's Senior Environmental Planner that the site has been constructed in Compliance with the relevant Conservation Commission Order of Conditions.
 - e. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features and fencing.
8. Notwithstanding the provisions of Condition #7 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings 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.
9. The landscaping shown on the approved Landscape Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.