



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

Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: September 4, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Frank Stearns, Attorney
Chestnut Hill Realty, Applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend Board Order 102-06(10) to allow construction of an 80-unit multi-family building

Applicant: Chestnut Hill Realty	
Site: Lot H-1, LaGrange Street	SBL: 82037 0095
Zoning: SR3 (rezoning to MR3 proposed)	Lot Area: 640,847 square feet
Current use: Undeveloped	Proposed use: 80-unit multi-family dwelling

BACKGROUND:

The subject property is a large vacant parcel located on LaGrange Street within the Kessler Woods subdivision created in 2004 and recorded in 2005. There were two stages of development proposed for the site, each separately permitted. The first built 11 single-family homes along a new street, Kessler Way. The second, issued a special permit in 2006, proposed a 3½-story 52-unit multi-family dwelling and ten units of attached dwellings, and required the parcel be rezoned to Multi-Residence 3. A number of waivers from the Ordinance were granted via the board order. The special permit was given a one-year extension in 2007, re-issued in 2008 and extended again in 2009. Through the Commonwealth's Permit Extension Act created by Section 173 of Chapter 240 of the Acts of 2010 and extended by Sections 74 and 75 of Chapter 238 of the Acts of 2012, the permit was given an additional four years to be exercised. The permit will expire on December 7, 2014 (four years from the one-year extension expiration date).

The applicant is proposing to amend the special permit for a different site plan allowing instead one 3½-story, 80-unit multi-family dwelling of rental apartments. The apartments will be comprised of 24

one-bedroom and 56 two-bedroom units, of which twelve will be affordable. There are 165 parking stalls proposed for the site between the garage and surface parking. An 11,090 square foot community space is proposed.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Franklin Stearns, K & L Gates, attorney, submitted 6/4/2014
- Board Order #102-06(3), issued 10/16/2006
- Board Order #102-06(7), issued 8/13/2007
- Board Order #102-06(9), issued 11/17/2008
- Board Order #102-06(10), issued 12/7/2009
- Ordinance Z-37, issued 11/17/2008
- Zoning Review Memo, prepared by Eve Tapper, Chief Zoning Code Official, dated 7/28/2008
- Proposed Site Plan, prepared by Stantec, dated 5/6/2014
- Comparison Site Plan, prepared by Stantec, issued 11/26/2013
- Architectural Plans, prepared by The Architectural Team, Inc, architects, dated 5/29/2014, revised 8/29/2014
 - Layout and materials plan
 - Grading plan
 - Grading change plan
 - Planting plan
 - Life safety plan
 - Elevations

ADMINISTRATIVE DETERMINATIONS:

1. While the proposed development is not allowed under the current SR-3 zoning, Ordinance Z-37 was passed in November 2008, rezoning the parcel to Multi-Residence 3 contingent upon exercising special permit BO 102-06(3), (7), (9) and (10). A multi-family dwelling requires a special permit in the MR-3 district pursuant to Section 30-9(d). The existing special permit is still valid due to the Permit Extension Act, but must be acted upon after the proposed amendment to validate the rezoning of the parcel. Ordinance Z-37 must be amended to reflect the amended special permit to which it is attached.
2. The Applicant is proposing 80 rental units within the multi-family structure. Per Section 30-24(f), the Inclusionary Zoning provisions, 15% of the total number of units, or twelve, must be affordable to a household making 80% of the area median income. The Applicant is proposing twelve affordable units and therefore meets the requirements of the Inclusionary Zoning provisions.
3. The proposed total square footage of the building is 190,439 square feet. Sections 30-24(b) and 30-24(d)(5) require a special permit for projects exceeding 20,000 square feet.
4. Section 30-15, Table 1 sets forth the standards for multi-family dwellings in the MR3 district. The proposed dwelling meets all of the dimensional standards set forth in the table. Footnote 6 of Table 1 states that, by special permit, a multi-family dwelling structure in the MR3 district may have a maximum building height of 48 feet and four stories maximum provided the lot has a minimum of ten acres, the distance from the street to the structure is no less than 150 feet, the distance between the structure and abutting properties is no less than 75 feet; and the front, side and rear setbacks for the lot are 50 feet from the lot line. The Applicant proposes a maximum

building height of 48 feet (where 46.75 was previously approved) and four stories (where 3.5 had been previously approved). As the lot area exceeds 10 acres, the Applicant is eligible for a special permit to allow for the maximum 48 foot height and maximum four stories requested.

5. Per Section 30-19(d)(2), two parking stalls must be provided for each dwelling unit in a multi-family dwelling, totaling 160 required stalls for the 80 proposed units. Plans indicate 138 parking stalls in the proposed garage, and 27 surface stalls, including two handicapped stalls totaling 165 spaces, exceeding the requirement of 160 stalls.
6. Section 30-19(e) requires that any parking facility containing more than five stalls and any loading facility be reviewed by the Commissioner of Inspectional Services.
7. The Applicant proposes 85 parking stalls measuring 8.5 feet wide in locations where columns are proposed, where Section 30-19(h)(2)(a) requires 9 feet. A special permit per Section 30-19(m) is required to waive the parking stall width requirement.
8. Section 30-19(h)(2)(d) states that where stalls head into a curb which bumpers can overhang, the length of the stalls may be reduced by two feet from the required stall depth dimensions. Section 30-19(h)(3) requires maneuvering aisles to be 24 feet wide where there is perpendicular parking. Fourteen standard parking stalls, plus two van-accessible stalls are proposed at the front of the building. These stalls are proposed at 17 feet deep, utilizing the two foot overhang, along a 24 foot wide maneuvering aisle. As proposed, no relief is required for this layout.
9. There are 30 tandem parking stalls proposed in the parking garage. Section 30-19(h)(5)(a) requires a special permit for parking requiring moving of cars.
10. Section 30-19(i) sets out the requirements for landscape screening and interior landscaping. While submitted plans appear to meet the landscaping requirements, numerous trees will be removed and the applicant must ensure that all applicable requirements of the Tree Ordinance are met.
11. No lighting plan was submitted as part of the application. The applicant should ensure that a photometric plan is submitted as part of the special permit application indicating the location of lighting and any light spillover. Should the applicant not be able to meet the requirements of section 30-19(j), a waiver is required.
12. A free-standing sign is proposed at the entrance to the development. Section 30-20(l) requires a special permit for a free-standing sign.
13. Section 30-5(b)(4) requires a special permit for a retaining wall exceeding four feet located within a setback. Several retaining walls are proposed on site, however it is unclear from the submitted plans whether any require a special permit due to height and location. Should any proposed retaining walls located within a setback exceed four feet, a special permit is required.
14. To accommodate the erection of the proposed structure, significant blasting and grading is required. Section 30-5(c)(1) requires any project with significant grading and landscape alteration be reviewed by the Commissioner of Inspectional Services.

15.

MR3 Zone	Required	Current Special Permit	Proposed
Lot Size	10,000 square feet	640,847 square feet	640,847 square feet
Frontage	80 feet	625 feet	625 feet
Setbacks for existing structure*			
• Front	150 feet	203 feet	152 feet
• Side	50 feet	110 feet	185 feet
• Rear	50 feet	77 feet	60 feet
Max Stories*	4	3.5	4
Max Building Height*	48 feet	46.75 feet	48 feet
Max Lot Coverage	45%	8%	8%
Min Open Space	30%	80%	85%
Parking	2 stalls/dwelling unit	146 stalls for 62 units	165 stalls for 80 units

* Table 1, footnote 5 states “Allow by special permit in a Multi-Residence 3 district a multi-family dwelling structure to have a maximum building height of 48 feet and a maximum number of stories of 4, provided that there is a minimum lot size of ten acres; the distance from any street(s) abutting the lot to such multi-family dwelling structure is no less than 150 feet and the distance between such structure and abutting properties is no less than 75 feet; and front, side and rear setbacks for the lot are 50 feet from the lot line.

Zoning Relief Required		
Ordinance		Action Required
§30-9(d)	To allow a multi-family dwelling in an MR3 zoning district	S.P. per §30-24
Z-37	Amend Ordinance Z-37 to reflect new Board Order	
§30-24(b), §30-24(d)(5)	To allow construction of structures in excess of 20,000 square feet	S.P. per §30-24
§30-15, Table 1, footnote 5	To allow increased maximum height of 48 feet	S.P. per §30-24
§30-19(h)(2)(a), §30-19(m)	To reduce the parking stall width requirement	S.P. per §30-24
§30-19(h)(5)(a)	To allow tandem parking	S.P. per §30-24
§30-19(j) §30-19(m)	Waive lighting requirements as necessary	S.P. per §30-24
§30-20(l)	To allow a free-standing sign	S.P. per §30-24
§30-5(b)(4)	To allow a retaining wall exceeding 4 feet within a setback	S.P. per §30-24
§30-23	Site Plan Review	
§30-24(f)	Compliance with the Inclusionary Housing provisions	