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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: December 31, 2020
MEETING DATE: January 5, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, 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 #425-20

146 Langley Road

Special Permit/Site Plan Approval to allow an oversized internal accessory apartment and to extend the nonconforming front setback.

The Land Use Committee (the "Committee") held a public hearing on this petition on Tuesday, November 24, 2020. The public hearing was held open for the petitioner to respond to questions and concerns raised in the Planning Department's memorandum and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised materials submitted by the petitioner as of December 31, 2020.

Executive Summary and Background

The Petitioner is seeking relief to create an oversized internal accessory apartment and construct a front addition that extends the nonconforming front setback.

The petitioner is proposing multiple additions to the principal structure and a 698 square foot detached garage. Prior to the public hearing, the Planning Department discovered that the principal dwelling unit's size was miscalculated, resulting in a proposed accessory apartment exceeding the size limits allowed by the Newton Zoning Ordinance (the "Ordinance"). The Ordinance states a special permit can be granted to allow internal accessory apartments up to 1,200 square feet or 40% of the principal dwelling unit, whichever is less.

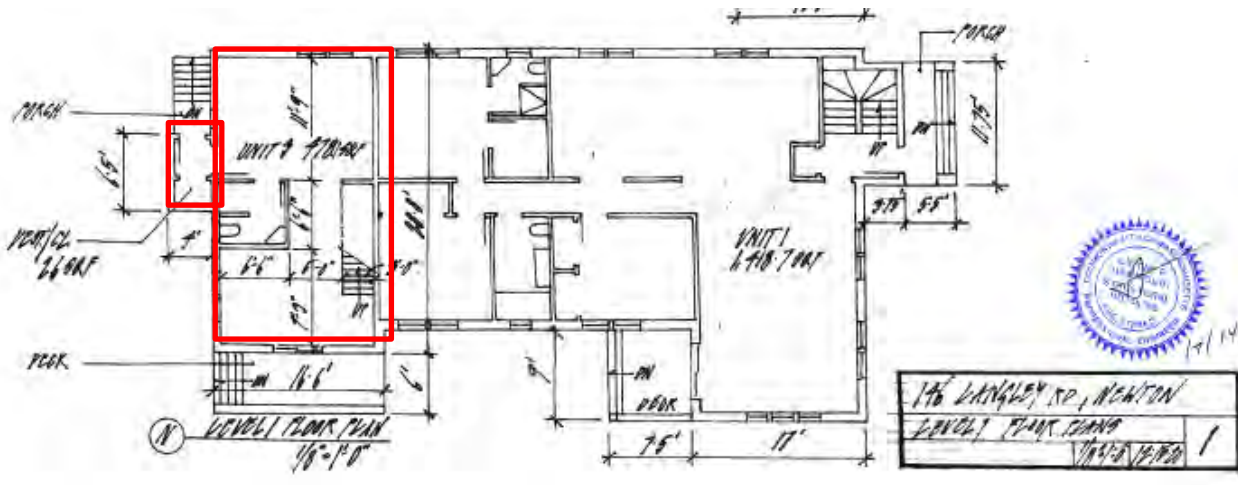
Revised Plans

Since the public hearing, the Planning Department has been working with the petitioner to calculate the allowed size of both the addition and accessory apartment, as the accessory apartment's calculation is based off space created for Unit 1, the principal dwelling unit. The petitioner submitted revised plans reducing the size of the proposed second-floor addition and rear entry vestibule. As a result, the accessory apartment complies with the size limitation of the Ordinance.

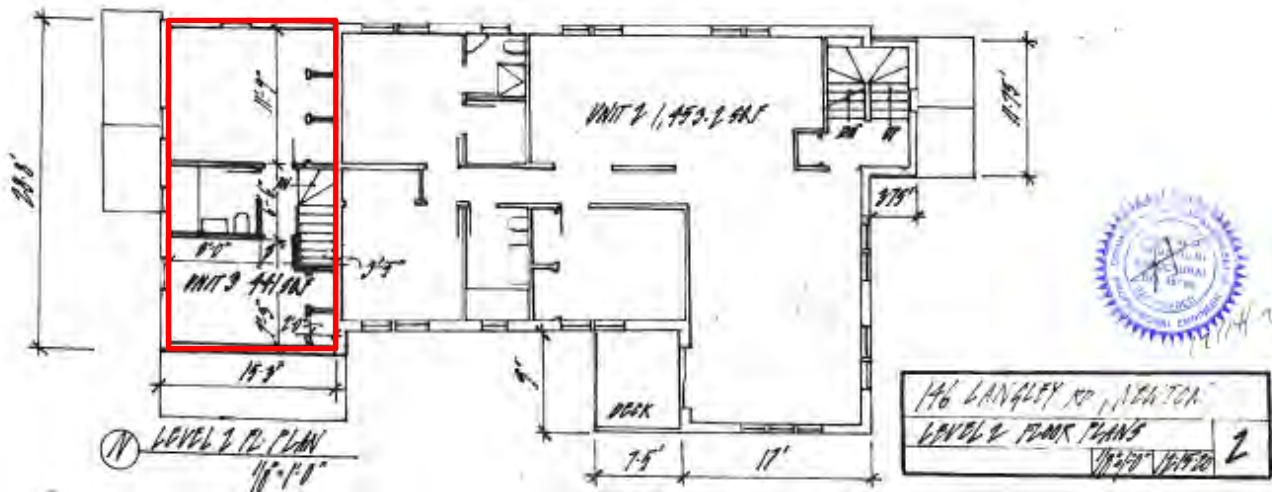
Proposed Site Plan



Proposed First Floor Plan



Proposed Second Floor Plan



With the proposed additions to the site, Unit 1 will consist of 2,363.76 square feet, which would allow an accessory apartment of 945.5 square feet by special permit. The petitioner is seeking to utilize 478 square feet of existing space within Unit 1, construct both a 26 square foot rear entry vestibule on the first floor and a 441 square foot second-floor addition within the footprint of the structure. This results in an internal accessory apartment of 945 square feet, where 780 square feet is allowed by right. The proposed accessory apartment is outlined in red on the above floor plans.

ATTACHMENTS:

- Attachment A: Zoning Review Memorandum, dated December 8, 2020
- Attachment B: DRAFT Council Order



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ZONING REVIEW MEMORANDUM

Date: December 8, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Bogdan and Maria Pilat, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow an oversized internal accessory apartment and to extend a nonconforming front setback

Applicant: Bogdan & Maria Pilat	
Site: 146 Langley Road	SBL: 61041 0002
Zoning: MR1	Lot Area: 10,312 square feet
Current use: Two-family dwelling	Proposed use: Two-family dwelling with an internal accessory apartment

BACKGROUND:

The property at 146 Langley Road consists of a 10,312 square foot lot improved with a two-family dwelling constructed in 1926. The petitioner intends to construct an addition to the dwelling to accommodate an accessory apartment, as well as a detached three-car garage structure at the rear. The proposed accessory apartment exceeds the maximum of 1,000 square feet allowed, requiring a special permit.

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

- Zoning Review Application, prepared by Maria Pilat, applicant, submitted 8/7/2020
- Existing Conditions Plot Plan, signed and stamped by Antoni Szerszunowicz, surveyor, dated 6/15/2020
- Proposed Conditions Plot Plan, signed and stamped by Antoni Szerszunowicz, surveyor, dated 8/3/2020
- Architectural plans and elevations, submitted 8/7/2020
- FAR worksheet, submitted 8/7/2020

ADMINISTRATIVE DETERMINATIONS:

1. There are two existing units within the dwelling. The petitioners propose to construct a rear addition to the existing structure, increasing the size of the units, enabling construction of an accessory apartment affiliated with Unit 1. Unit 1 is proposed with a total of 2,363.8 square feet, with the principal unit at 1,418.7 square feet and the accessory apartment with 945.1 square feet. Per section 6.7.1.D.2 the accessory apartment may be up to 33% of the principal dwelling unit or 1,000 square feet, whichever is less by right and up to 1,200 square feet or 40% whichever is less, by special permit. The proposed apartment at 945.1 square feet is 40% of the total habitable space of principal dwelling. A special permit is required for an apartment exceeding the maximum size allowed.
2. The dwelling has an existing nonconforming front setback of 24.6 feet where 25 feet is required per section 3.2.3. The petitioners intend to raze the existing covered front entry and construct a new larger covered front entrance, which further extends the nonconforming front setback to 20 feet. A special permit per sections 3.2.3 and 7.8.2.C.2 is required.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	10,312 square feet	No change
Frontage	70 feet	61.55 feet	No change
Setbacks – Principal Structure			
• Front	25 feet	24.6 feet	20 feet
• Side	7.5 feet	19.8 feet	19.4 feet
• Side	7.5 feet	14.6 feet	No change
• Rear	15 feet	49.1 feet	47 feet
Setbacks – Accessory Structure			
• Front	25 feet		>100 feet
• Side	5 feet		± 20 feet
• Side	5 feet		5.9 feet
• Rear	5 feet		5.3 feet
Height	36 feet	30.7 feet	No change
Stories	2.5	2.5	No change
FAR	.48	.31	.48
Max Lot Coverage	30%	18.8%	27.7%
Min. Open Space	50%	62.8%	53.5%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§6.7.1.D.2	Request to allow an oversized accessory apartment	S.P. per §7.3.3
§3.2.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

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 allow an oversized accessory apartment and to further extend a nonconforming front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed oversized accessory apartment due to its location in the Multi Residence 1 zone with nearby multifamily residential uses (§6.7.1.D.1, §7.3.3.C.1)
2. The proposed accessory apartment will not adversely affect the neighborhood because the bulk of the addition to accommodate the accessory apartment is within the footprint of the existing structure and will not be visible from the street. (§6.7.1.D.1, §7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because parking for the existing two units and accessory apartment is contained on site. (§6.7.1.D.1, §7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§6.7.1.D.1, §7.3.3.C.4)
5. The proposed extension of the nonconforming front setback is not substantially more detrimental than the existing nonconforming setback is to the neighborhood because it is contextual with other setbacks in the neighborhood. (§3.2.3, §7.8.2.C.2)

PETITION NUMBER: #425-20

PETITIONER: Bogdan and Maria Pilat

LOCATION: 146 Langley Road, on land known as Section 61, Block 41, Lot 2, containing approximately 10,312 square feet of land

OWNER: Bogdan and Maria Pilat

ADDRESS OF OWNER: 146 Langley Road
Newton, MA 02459

TO BE USED FOR: Two-Family Dwelling with an internal accessory apartment

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §6.7.1.D.1, and §7.3.3, to allow an oversized internal accessory apartment and §3.2.3, and §7.8.2.C.2 to further extend the nonconforming front setback

ZONING: Multi Residence 1

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. Plot Plan showing proposed conditions at 146 Langley Road, signed and stamped by Antoni Szerszunowicz, Professional Land Surveyor, dated December 3, 2020;
 - b. Architectural Plans and Elevations, signed and stamped by Nazeih R. Hammouri, dated December 14, 2020 consisting of the following seven (7) sheets.
 - i. Level 1 Floor Plans, existing and proposed, showing Units 1 and 3
 - ii. Level 2 Floor Plans, existing and proposed, showing Units 2 and 3
 - iii. Roof Plan
 - iv. North and South Elevations
 - v. East Elevations
 - vi. West Elevations
 - vii. Garage Plans showing front and north elevation, floor plan and section, dated November 18, 2020
2. 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.
3. The petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
4. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - 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.
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.