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Barney Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: January 19, 2018
MEETING DATE: January 23, 2018
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 #19-18

307-309 Lexington Street

Request for extend the nonconforming two-family use

The Land Use Committee (The "Committee") opened and closed the public hearing on this petition on Tuesday, January 9, 2018. The vote to approve was postponed which allowed the petitioner to update the site plan to address some concerns of the Committee regarding the proposed driveway. As such, the petitioner has provided an updated site plan and architectural plan. This memo reflects those revised plans submitted by the petitioners as of January 19, 2018. Additionally, the Committee inquired as to the status of the now vacant lot located between the subject property and the property at 299-301 Lexington Street

Plan Modifications

The petitioner has moved the proposed curb cut away from the property boundary shared with the abutter to the right at 299-301 Lexington Street. Subsequently, the first 30 feet of the driveway is also moved away from the property line to allow for a planting area and some screening. Additionally, the plan shows a six foot tall privacy fence, the top of which is slightly open, starting in-line with the proposed addition and running towards the rear property. The fence continues along the rear property line before terminating 30 short of the existing detached garage. The Planning Department is unconcerned with the proposed changes, but asks the petitioner to confirm that this planting area will be large enough for the proposed trees to survive.

Vacant Lot

The petitioner is seeking to extend the existing nonconforming use at 307-309 Lexington Street by constructing an addition to the right side of the dwelling and combining the subject property with an adjacent vacant lot; both lots are owned by the petitioner. The provided Zoning Review Memorandum, dated November 27, 2017 assumed the subject property and the vacant lot had been combined in the “Existing” column. The “Proposed” column therefore assumed the lots had been combined, and the addition was approved. For clarity, the table from the Zoning Review Memorandum has been updated below to include a footnote explaining this assumption. Also, there was some inaccurate information presented in the initial memo, which has been corrected below.

Table I: Updated Zoning Table

SR3 Zone	Required	Existing*	Proposed
Lot Size	10,000 square feet	15,216 square feet	No change
Frontage	80 feet	113 feet	No change
Setbacks <ul style="list-style-type: none">• Front• Right Side• Left Side• Rear	25 feet 7.5 feet 7.5 feet 15 feet	26.4 feet 54.4 feet** 38.4 feet** 35.3 feet**	No change 11.8 feet** No Change** 20.1 feet
Building Height	36 feet	31.3 feet	32.79 feet
Stories	2.5	2.5	No change
FAR	.38	.16	.36
Max Lot Coverage	30%	16.5%	25.06%
Min. Open Space	50%	75.7%	56.13%

* The Existing Column above assumes the two lots have been combined

** Corrections from the initial Zoning Review Memorandum, dated November 27, 2017

ATTACHMENTS:

Attachment A: Draft Council Order

CITY OF NEWTON

CITY COUNCIL

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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend the nonconforming two-family residential use, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The proposed extension of the nonconforming two-family use is not substantially more detrimental than the existing nonconforming use is to the neighborhood because the addition will comply with the dimensional standards of an old lot in the Single Residence 3 zone and the existing historic structure will be preserved (§3.4.1 and §7.8.2.C.2).

PETITION NUMBER: #19-18

PETITIONER: Lesvos Properties LLC, Maria P. Banis

LOCATION: 307-309 Lexington Street, on land known as Section 41, Block 30, Lot 37, containing approx. 15,216 square feet of land

OWNER: Lesvos Properties LLC, Maria P. Banis

ADDRESS OF OWNER: 309 Lexington Street
Newton, MA 02466

TO BE USED FOR: Two-family dwelling

EXPLANATORY NOTES: §3.4.1 and §7.8.2.C.2 to extend the nonconforming two-family use

ZONING: Single Residence 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 showing #307 Lexington Street entitled "Proposed Conditions Site Plan," stamped and signed by Verne. T. Porter Jr., PLS, and Paul J. Tyrell, PLS, revised and dated January 16, 2018.
 - b. Architectural Plan Set, entitled "Banis Residence, 307 Lexington St, Newton, MA," signed and stamped by Peter Sachs, Architect, revised and dated November 27, 2017 consisting of the following fourteen (14) sheets:
 - i. A2, Proposed Basement Floor Plan
 - ii. A3, Proposed First Floor Plan
 - iii. A4, Proposed Second Floor Plan
 - iv. A5, Proposed Roof Floor Plan
 - v. A6, Proposed Front and Right Elevation
 - vi. A7, Proposed Back and Left Elevation
 - vii. A8, Proposed Section
 - viii. A9, Proposed Window and Door Schedules
 - ix. EX1, Existing Basement and First Floor Plan
 - x. EX2, Existing Second and Third Floor Plan
 - xi. EX3, Existing Roof Floor Plan
 - xii. EX4, Existing Front and Right Elevation
 - xiii. EX5, Existing Back and Left Elevation
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 comply with the City's Tree Preservation Ordinance.
4. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan for review to the Director of Planning and Development.
5. 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, 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.
6. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") plan combining the two lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the

Middlesex Registry of Deeds. A certified copy of the ANR plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.

7. Prior to the issuance of any building permit the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Board Order and shall include, but not be limited to, the following provisions:
 - 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 7:00 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. The proposed schedule of the project, including the general phasing of the construction activities.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
 - e. 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.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. De-watering methodology.
 - h. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - i. A plan for rodent control during construction.
8. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Board 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. Obtained a written statement from the Engineering Division of Public Works that confirms receipt of a certified Copy of the O&M Plan in accordance with Condition #5.
 - f. Obtained a written statement from the Engineering Division of Public Works that confirms receipt of a certified copy of the ANR Plan in accordance with Condition #6.
 - g. Received final approval from the Director of Planning and Development for the Final Landscape Plan.
 - h. Received final approval from the Director of Planning and Development for the Construction Management Plan.
9. No Final Inspection/Occupancy Permit for the use 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 and professional engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development, a final as-built survey plan in paper and digital format by a licensed surveyor.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
10. Notwithstanding the provisions of Condition #9. 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.