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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: November 15, 2019
MEETING DATE: November 21, 2019
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 #259-19

264 Pearl Street

Special Permit/Site Plan Approval to allow three Single-Family Attached Dwellings with waivers from the dimensional standards and to allow a retaining wall of four feet in height within the setback.

The Land Use Committee (the "Committee") held the public hearing on this petition on Thursday September 5, 2019. 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 November 14, 2019.

In the Public Hearing Memorandum, the Planning Department stated that it is unconcerned with the request to increase the number of units on site from two to three due to the size of the lot and its proximity to the Nonantum village center. However, staff suggested that the petitioner consider breaking down the massing of the structure by articulating the façade, varying the roof forms, or providing a range of unit sizes. Staff also suggested that the three guest parking stalls at the rear of the structure be removed in favor of more open space. In response, the petitioner submitted revised plans which incorporate the following changes:

- Removal of the middle gable peaks on the north and south façades;
- Removal of the three guest stalls at the rear of the structure, resulting in an increase in open space and in the number of plantings; and

- Increase in the width of the driveway from 16 feet to 18 feet, as requested by the City of Newton Fire Department.

Initial Elevation



Revised Elevation



The Planning Department recognizes that width of the lot combined with the 25-foot setback requirement of Single-Family Attached Dwellings allows for little flexibility in the design of the structure. The Planning Department also recognizes that the proposed structure has a smaller footprint and floor area ratio than an as of right two-family dwelling. The revised elevations do not articulate the structure nor alter the unit sizes, but the plans do reduce the bulk and mass of the structure while allowing for demarcation of the units. For these reasons, the Planning Department believes that the three Single-Family Attached Dwellings, with their associated waivers, will not have an adverse impact on the neighborhood.

Engineering Review

Due to the soils on site, the petitioner is proposing to store stormwater in tanks and then pump the water into the City's drain network. To do so, the petitioner is required to provide capacity calculations for the City's drain network. The Engineering Division of Public Works believes these calculations can be provided prior to the issuance of a building permit, should this petitioner be approved. In conjunction with this design, the Engineering Division will require the petitioner to conduct pre- and post-construction closed circuit television inspections of the City's drainpipe and provide the Engineering Division electronic copies for review and approval. Lastly, the Engineering Division of Public Works suggests that a backup power source be incorporated into the design of the pump system.

which will also be subject to review and approval of the Engineering Division of Public Works. The Planning Department has incorporated these conditions into the draft Council Order (**Attachment A**).

ATTACHMENTS:

Attachment A: DRAFT Council Order

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 three single-family attached dwellings with waivers to the dimensional standards and to allow retaining walls of four feet in height within a setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the three Single-Family Attached Dwellings because the site is proximate to the Nonantum village center and at 4,869 square feet per unit, the lot exceeds the minimum 4,000 square feet density per unit required (§7.3.3.C.1).
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood because the structure is similar in footprint and floor area ratio to an as of right single or two-family structure (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner is maintaining the driveway location (§7.3.3.C.3).
4. Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
5. Exceptions to the dimensional standards of Single-Family Attached Dwellings, specifically lot area, frontage, side setbacks, and allowing a driveway within ten feet of a side lot line are in the public interest for the following reasons:
 - a. The site exceeds the required 4,000 square feet of lot area per unit;
 - b. The petition develops an underutilized parcel proximate to a village center;
 - c. Landscaping is utilized within the reduced side setback distances to protect abutting uses; and
 - d. The site design utilizes the existing driveway location.

(§3.2.4 and §6.2.3.B.2)

6. The Council finds that the specific site is an appropriate location for retaining walls of four feet in height within the front and the side setbacks because such walls allow for the driveway to slope into the site and allow for a front yard along Pearl Street (§5.4.2.B).

PETITION NUMBER: #259-19

PETITIONER: Benedetto C. Caira

LOCATION: 264 Pearl Street, Ward 1, on land known as Section 11, Block 14, Lot 10, containing approximately 14,608 sq. ft. of land

OWNER: Benedetto C. Caira

ADDRESS OF OWNER: 264 Pearl Street
Newton, MA 02458

TO BE USED FOR: Three Single-Family Attached Dwellings

EXPLANATORY NOTES: §3.4.1 and §7.3.3, to allow three Single-Family Attached Dwellings; §3.2.4 and §7.3.3 to reduce the side setback requirement; §3.2.4 and §7.3.3 to reduce the frontage requirement; §3.2.4 and §7.3.3 to reduce the lot area requirement; §3.2.4, and §6.2.3.B.2 to allow a driveway within ten feet of a side lot line; §5.4.2.B and §7.3.3 to allow retaining walls of four feet within the setbacks.

ZONING: Multi-Residence 2 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. Civil Plans, VTP Associates, Inc., signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Marc Besio, Professional Engineer, dated June 24, 2019, Revised September 5, 2019, consisting of three (3) sheets.
 - b. Architectural plans entitled, "Three Attached Units at 264 Pearl Street", prepared by C.D. Calhoun & Associates, Inc., signed and stamped by Charles D. Calhoun, Registered Architect, consisting of the following five (5) sheets:

- i. Cover Sheet, dated June 10, 2019.
 - ii. Garage Level Plan, dated June 10, 2019 Revised October 10, 2019.
 - iii. First Floor Plan, June 10, 2019.
 - iv. Second Floor Plan, dated June 10, 2019.
 - v. Elevations, dated June 10, 2019 Revised September 5, 2019.
2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
3. Prior to the issuance of a Building Permit, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Pearl Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
4. Prior to the issuance of any building permit, the petitioner shall provide a final Operations and Maintenance ("O&M") Plan for stormwater management 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 Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
5. Prior to the issuance of a Building Permit, the petitioner shall provide a final design for a "backup" power supply to the water pump on site to the satisfaction of the Commissioner of Public Works.
6. 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.
7. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan for review and approval to the Director of Planning and Development.
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 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 Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - 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. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - f. Recorded at the Registry of Deeds for the Southern District of Middlesex County a certified copy of the O&M and submitted to the Engineering Division of Public Works.

- g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
9. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Pearl Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
 10. Prior to the issuance of any occupancy certificate, the petitioner shall update the sidewalks along the frontage to the satisfaction of the Commissioner of Public Works.
 11. 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 or professional land surveyor 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 electronic format.
 - 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.
 12. Notwithstanding the provisions of Condition #11 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 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.
 13. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.