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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 #317-19

67 Walnut 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 October 10, 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 one to three given the size of the site and given the presence of other multi-family uses in the area. However, staff suggested that the petitioner consider redesigning the Walnut Street façade to reduce the number of visible peaks and ridges. Also, staff, asked for more information regarding the accessibility of the rear unit, and asked the petitioner to provide a caliper inch analysis. In response, the petitioner:

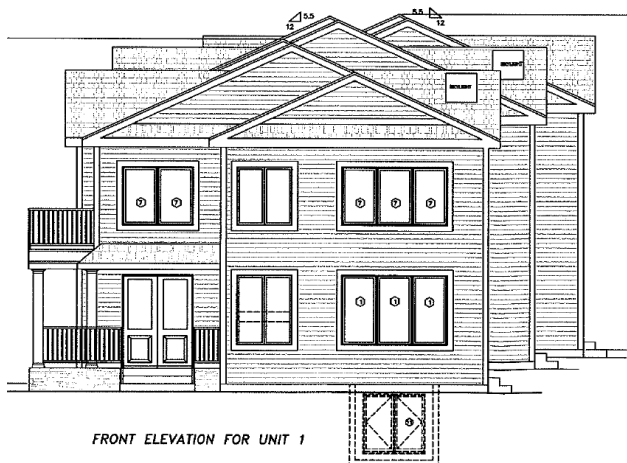
- Submitted revised plans which show more detail in the Walnut Street façade. The layout and size of the rear unit was also altered such that the side yard setback (south) increased from eight feet to 11.8 feet; and

- Submitted a revised landscape plan that complies with the City's Tree Preservation and Protection Ordinance, as evidenced by a permit from the Director of Urban Forestry.

Elevations

The petitioner submitted revised elevations which show more detail to the façade, specifically fish-scale shingles, lintels, and window hoods. These details sharpen the facade, while minimizing the presence of the articulations and the ridges of the middle and rear units. Staff discussed the elevation with the petitioner and with the City's Urban Designer who noted that although the elevation shows the ridges and peaks of the middle and rear units, these units are set back from the front façade, the middle unit is set back 32 feet, while the rear unit is set back approximately 63 feet. Additionally, the structure is built above the grade of the street which, when combined with the setback of the middle and rear units, would render the peaks and ridges not visible to pedestrians along Walnut Street. After review, staff is supportive of the revised elevation.

Initial Front Elevation



Revised Front Elevation



The petitioner also indicated that the first floor of the rear unit would be constructed to be adaptable to those who may require a wheelchair, rather than for the immediate use of someone requiring a wheelchair. For example, the hallways, bedroom, and bathroom can accommodate a wheelchair, but the countertops, appliances, and other fixtures would not be installed at a height for use by someone in a wheelchair. Accordingly, the rear parking facility would contain one parking stall large enough to accommodate a van accessible stall, with striping. The Planning Department supports this design as it diversifies housing stock and creates choice for residents. Staff included a condition regarding this design in the draft Council Order, should the petition be approved.

Landscaping

The petitioner submitted a revised landscape plan that identifies the existing trees to be removed and retained, as well as the location and species of proposed plantings. The petitioner has received approval to remove certain trees from the Director of Urban Forestry. As such, staff is supportive of the plan. The petitioner will require review and approval from the Department of Public Works for

trees and other large plantings to be installed within the City's easement at the rear of the property. Such approval may be in the form of a license agreement with the City.

Engineering Review

Associate City Engineer, John Daghljan, reviewed this petition for conformance with the City of Newton Engineering Design Standards (**Attachment A**). Mr. Daghljan suggests that the retaining wall along the northern boundary be moved a few feet to the south to minimize encroachment into the abutting property during construction. Mr. Daghljan also states that additional information regarding drainage and groundwater is required, in addition to an Operations and Maintenance Plan for stormwater management. Staff conferred with Mr. Daghljan: these items can be completed prior to the issuance of a building permit should this petition be approved. Lastly, Mr. Daghljan initially asked for the turning template plan to be overlaid onto the site plan. At the time of this writing, the petitioner has not provided a revised turning template plan. Staff will provide the Committee with an update at the public hearing.

ATTACHMENTS:

Attachment A: Engineering Review Memorandum, dated June 8, 2018
Attachment B: DRAFT Council Order

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – #67 Walnut Street

Date: November 14, 2019

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*#67 Walnut Street
Proposed Civil Plan
Prepared by: Spruhan Engineering PC
Dated: 11-16-'18
Revised: 8/27/'19
9-30-'19*

Executive Summary:

This permit entails the demolition of a single-family dwelling and the construction of three multi-family units on a 14,520 square foot [0.33 acre] lot having approximately 84 feet of frontage on Waltham Street along the east, and residential homes on the north and west. Along the southern property line, a common driveway provides access to the existing home and the neighboring apartment complex; the applicant proposes to utilize this as the access for the 3-units. The site has a high point elevation of 54-feet along the

northern property line, and slopes towards the south and east. The property has an existing City drain easement along the rear border, there is no change proposed within or near this easement. The design has a retaining wall of varying height along the northern property line, the wall is place at the property line, I recommend that the wall be pulled back onto the lot at least one foot to facilitate the construction without encroaching on the neighbor's property.



Existing Common Driveway

A drainage collection system is shown on the site plan, the drainage report does not consider both volume and rate for pre & post conditions as required in accordance to the City's Stormwater policy, it needs to be updated to reflect this requirement; additionally *pre & post* watershed maps with sub-basins are needed for evaluation. The graphic line weight on sheet 2 is very difficult to read, it is unclear as where and how the trench drains are connected, the line work is blurred and unclear to flow.

The design also has sump pumps that discharge just outside of the proposed building and are directed towards the neighboring property, this is unacceptable and must be addressed. According to the soils log one test pit was dug down to ten feet with no groundwater, so why are sump pumps being proposed if there is no groundwater and the finish floor of the garages is above the bottom elevation of the test pit?

One (2") domestic service connection is proposed for the three units which will have a master meter that will be read and billed by the Utilities Division, the property owner

may install sub-meters for each unit. Finally, a zero-inch [0"] copper service is labeled as a fire suppression service, please correct this. Fire flow testing [witnessed by the Fire Department & Utilities Division] shall be performed and hydraulic calculations submitted to Fire Prevention and Engineering are needed to justify the size of fire suppression line.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted to the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service and/or structures shall be pressure tested and videotaped after final installation is complete. The sewer service will NOT be accepted until testing is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until the manhole is tested. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.

2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

8. The contractor of record shall contact the Newton Police Department 48 hours in advanced and arrange for Police detail to help residents & commuters navigate around the construction activity.
9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

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 the 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 three Single-Family Attached Dwellings because Single-Family Attached Dwellings are an allowed use in the Multi-Residence 1 zone and the petition exceeds the lot area per unit requirement (§7.3.3.C.1).
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood due to the presence of other multi-family uses in the area (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§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, side setbacks, and a driveway within ten feet of a side lot line are in the public interest for the following reasons:
 - a. The site, as proposed, would exceed the required lot area per unit of Single-Family Attached Dwellings;
 - b. The structure has a larger setback and a smaller footprint than an as of right two-family dwelling; and
 - c. Retaining existing driveway location preserves open space on site.(§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 side setbacks due to the grade of the site and such walls allow for access into the basement garages, preserving open space. (§5.4.2.B)

PETITION NUMBER: #317-19

PETITIONER: 60 Woodbine Street, LLC.

LOCATION: 67 Walnut Street, Ward 2, on land known as Section 21, Block 24, Lot 15, containing approximately 14,516 sq. ft. of land

OWNER: 60 Woodbine Street, LLC.

ADDRESS OF OWNER: 67 Walnut Street
Newton, MA 02460

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 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 1 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, prepared by Peter Nolan & Associates, LLC and Spruhan Engineering, P.C. signed and stamped by Peter J. Nolan, Professional Land Surveyor, and Edmond Spruhan, Professional Engineer, dated June 24, 2019, Revised September 5, 2019, consisting of the following six (6) sheets:
 - i. Existing Site Plan, dated September 12, 2018.
 - ii. Proposed Civil Plan, dated August 27, 2019 Revised September 30, 2019
 - iii. Detail Sheet, dated August 27, 2019 Revised September 30, 2019
 - iv. Detail Sheet, dated August 27, 2019 Revised September 30, 2019

- v. Grading Plan, dated October 16, 2019 Revised September 30, 2019
 - vi. Footprint Comparison, dated October 16, 2019
 - b. Architectural plans entitled, "67 Walnut Street", prepared by RAV & Associates, Inc., signed and stamped by Richard A. Volkin, Professional Engineer, consisting of the following five (5) sheets:
 - i. First Floor Plan, dated February 1, 2019 Revised September 17, 2019
 - ii. Second Floor Plan, dated February 1, 2019
 - iii. Basement Plan, dated February 1, 2019
 - iv. Side Elevations, dated February 1, 2019
 - v. Front and Rear Elevations, dated February 1, 2019
 - c. Landscape Plan, "67 Walnut Street", prepared by Groundscapes Express, Inc., unsigned and unstamped, dated November 1, 2019.
- 2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
- 3. The petitioner shall construct the first floor of the rear unit, "Unit 3" in the plans referenced in Condition #1 above, to the Group 1 standard of Section 521 of the Code of Massachusetts Regulations.
- 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 District Registry of Deeds and implemented. A recorded copy of the O&M plan 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 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.
- 6. Prior to the issuance of any Building Permit, the petitioner shall provide a Final Landscape Plan for review and approval to the Commissioner of Public Works and the Director of Planning and Development. Such approval may include obtaining a license agreement for trees or any other large plantings to be installed within the City's Drain Easement.
- 7. 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.
8. No Occupancy Permit/ Final Inspection 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 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.
 - 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.
9. Notwithstanding the provisions of Condition #8 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.
10. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.