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Date: 02/24/2021 04:29 PM
Subject: 400 - 402 Massachusetts Avenue, Arlington, MA

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Hi Jenny and Erin:

I am sending along revised plans with respect to the continued hearing scheduled for next Monday evening, March 1, 2021 as follows:

- The revised plans show that the exiting office located in the basement will remain.
- The first level of the building will contain an office unit on the righthand side of the building fronting on Massachusetts Avenue and a residential unit on the left hand side.
- The second level will contain two residential units.
- Each of units will be one-bedroom units.
- The bicycle storage area will be located on the first floor rather than in the basement.
- There will be an electric motor vehicle charging station as shown on the plans.
- The revised plans also show a covered trash enclosure.
- The revisions to the previously filed plans are an effort on the part the Applicants to comply with what they understand to be comments made during the first ARB hearing, particularly so with respect to the impression they came away that while a conversion to four residential units would not be acceptable, a conversion to three residential units might be acceptable.
- I am also sending along a revised Dimensional form in connection with the revisions to the plans.

While the Applicants position previously requesting four residential units was based upon reasons which they presented to the ARB during the initial hearing, they now clearly understand that a request for four residential units is not likely to be approved by the members of the Board of Appeals.

It is important to note that if the ARB approves the revised plans for two office units and three residential units, the property will then become subject to the jurisdiction of the ARB and not the Zoning Board of Appeals as would be the case if the matter is sent back to the Zoning Board of Appeals because of no favorable action by the ARB.

The location of the property on Massachusetts Avenue, in a mixed-use area, is an indication that the property would be within the jurisdiction of the ARB and not the Zoning Board of Appeals but for the 1980 Zoning Board of Appeals Decision.

property because they would not be requesting any relief from the Zoning Board of Appeals.

Chapter 40A, Section 7 deals with any issue with respect to a statement made at the last ARB hearing relating to whether the building, as constructed, was constructed in accordance with the substance of the 1980 Zoning Board of Appeals' Decision.

No plans with respect to the 1980 Zoning Board of Appeals Decision can be located or any other information relating to the physical characteristics of the building to be reconstructed after the fire which occurred at the property.

Chapter 40A, Section 7 has been enacted by the State Legislature to specifically deal with this type of situation by providing that there can be no action by a representative of a building department "to compel the removal, alteration or relocation of any structure by reason of any alleged violation of the provisions of Chapter 40A or any Ordinance or Bylaw adopted thereunder or the conditions of any Variance or Special Permit, unless an enforcement action is pursued within ten years after the commencement of the alleged violation" which has not occurred with respect to the property.

Even if there was a violation, which the Applicants do not concede, the property is now legally nonconforming in accordance with the provisions of Chapter 40A and the Town of Arlington's Zoning Ordinance.

In addition the tandem parking and the manner in which vehicles exit the parking area at the building have not changed since the date of the 1980 Zoning Decision and even prior to that date.

In summary, the Applicants request that their Application previously filed be approved for three residential units and two office units as shown on the revised plans which are now being filed with the ARB.

Thank you.

Bob

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Attachments:

File: 400-402 Mas Ave Dimensional and Open Space 2021 02 24.pdf	Size: 70k	Content Type: application/pdf
File: 2021-02-23 400 Mass Ave Arlington Apartments _REV PLANS.pdf	Size: 331k	Content Type: application/pdf