



Zoning & Planning Committee Report

City of Newton In City Council

Thursday, February 15, 2024

Present: Councilors Baker (Chair), Oliver, Albright, Wright, Krintzman, Getz, and Danberg

Absent: Councilor Kalis

Also Present: Councilors Malakie, Farrell, Lucas, Leary, Block, and Greenberg

City Staff: Jennifer Caira, Deputy Director of Planning; Zachary LeMel, Chief of Long Range Planning; Olivia James, Community Engagement Specialist; Jennifer Wilson, Assistant City Solicitor; and Jaclyn Norton, Committee Clerk

For more information regarding this meeting, a video recording can be found at the following link: [Zoning and Planning Committee - February 15, 2024 \(youtube.com\)](https://www.youtube.com/watch?v=...)

#21-24 Discussion concerning ZAP Committee workplan for the new term
COUNCILORS BAKER AND OLIVER requesting a discussion with Zoning and Planning Committee concerning the work plan of the ZAP Committee for the new 2024-2025 term.

Action: **Zoning & Planning Held 6-0 (Councilor Albright Not Voting)**

Note: The Committee voted 6-0 (Councilor Albright Not Voting) on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

#43-24 Quarterly update on projects using the VCOD overlay districts
COUNCILORS ALBRIGHT AND DANBERG requesting updates on any potential projects brought to the Planning Department under the new Village Center Overlay District. The updates should include indications of interest and actual permits filed; for which villages and under which zoning districts; number of stories and units.

Action: **Zoning & Planning Held 6-0 (Councilor Albright Not Voting)**

Note: The Committee voted 6-0 (Councilor Albright Not Voting) on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

#85-24 Request for discussion and possible amendments to enhance the preservation of existing homes.

COUNCILORS BAKER, OLIVER, MALAKIE, KALIS, GETZ, LUCAS, LOBOVITS, AND WRIGHT requesting a discussion and possible amendments to Chapter 30 Zoning or other City Ordinances to enhance the preservation of existing homes over their replacement by larger and more expensive structures.

Action: **Zoning & Planning Held 7-0**

Note: The Committee voted 7-0 on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

#41-24 Amend the setbacks in the MR zones to encourage preservation of existing buildings

COUNCILORS ALBRIGHT, DANBERG, KRINTZMAN, AND LEARY seeking a discussion with the Planning Department to consider ordinance amendments that would revise the metrics in the multi-residence (MR1, MR2 and MR3) zones, to regulate the size of new buildings better, enable a wider range of housing options close to public transit, and better incentivize preservation and renovation of existing housing stock.

Action: **Zoning & Planning Held 7-0**

Note: The Committee voted 7-0 on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

#76-24 Discussion and possible ordinance amendment to deal with grade changes created during construction causing stormwater runoff on neighboring properties

COUNCILORS ALBRIGHT, LIPOF, WRIGHT, AND LEARY requesting a discussion with the Planning Department to address concerns relative to the trend of significantly raising grade elevations on lots, using retaining walls, terracing and other means to add soil to conceal a raised basement, which can lead to new buildings that are significantly taller than nearby existing houses in the area and cause denuding of wooded areas and increase stormwater runoff. This discussion may result in an ordinance change to Chapter 30 section 5.4.2 which would require a special permit or other means of city review of all retaining walls over 4 feet on a site.

Action: **Zoning & Planning Held 7-0**

Note: The Committee voted 7-0 on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

#83-24 Discuss and Implement Key Metrics & Reporting Process

COUNCILORS OLIVER, WRIGHT, GETZ, LAREDO, FARRELL, KALIS, ALBRIGHT, AND MICLEY requesting discussion and implementation of a public reporting process for key metrics relevant to the Planning Department. The discussion should include the topics to address, which metrics to include, where, and how often they should be reported. We would expect that our discussion will lead to a list of topics and metrics that need to be prioritized based on existing data availability as well as staff time. We further acknowledge that this is likely to be an iterative process.

Action: **Zoning & Planning Held 7-0**

Note: The Committee voted 7-0 on a motion to hold from Councilor Krintzman. A revised report will be posted at a later date.

The meeting adjourned at 9:40 pm.

Respectfully Submitted,

R. Lisle Baker, Chair



Grading and Retaining Walls

Docket #76-24

Zoning and Planning Committee
February 15, 2024
Department of Planning and Development



Agenda

- Overview
- Existing Regulations
- Issues
- Potential Solutions
- Next Steps
- Questions for the Committee

Overview

Issues

- Sites are being maxed out
- Developers manipulate height and FAR by using grading and retaining walls
- Impact on neighboring houses

Existing Regulations

Height

Zoning ordinance sets maximum height and floor area limits for new single and two-family homes.

Height is measured from the average finished grade elevations around the perimeter of the building.



Grading and Retaining Walls

Prior to 2009 a Special Permit was required to change existing grades by more than 3 feet

This rule was difficult to reasonably implement and interpretations were necessary over time to allow for foundation excavation and similar work

In 2009, at recommendation of the zoning task force, this provision was replaced by a Special Permit requirement for retaining walls over 4 feet in height in the setback

A Special Permit is required for all retaining walls over 4' regardless of location in VCOD zoning



Stormwater

Ordinance updated in June 2022

Previous requirements:

- Any development or redevelopment creating an increase in impervious area of 400 sf or 4%

New requirements:

Stormwater management review and permit now required for:

- Any residential development or redevelopment
- Any development or redevelopment creating more than 400 sf of new impervious area
- Construction of retaining walls
- Trench excavation requiring dewatering
- Land disturbances of more than 5,000 sf

Issues

Height

Measuring height from finished grade allows for the manipulation of existing grades, which can result in homes that appear taller than adjacent homes



Before

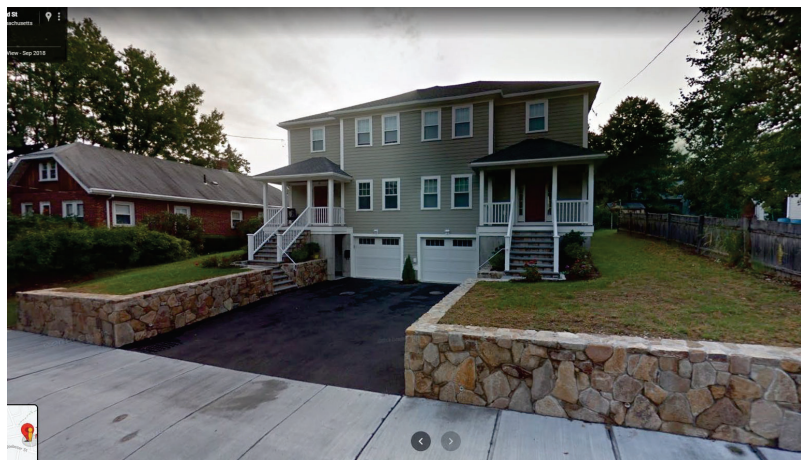


After



Height

Raising the existing grade is often done to construct a full basement where there is a high water table, to include a tucked under garage, or to maximize FAR



Retaining Walls

There are no height restrictions or Special Permit requirement for retaining walls outside of setbacks

Retaining walls are often used to allow construction on steep lots or create a flat yard



Retaining Walls

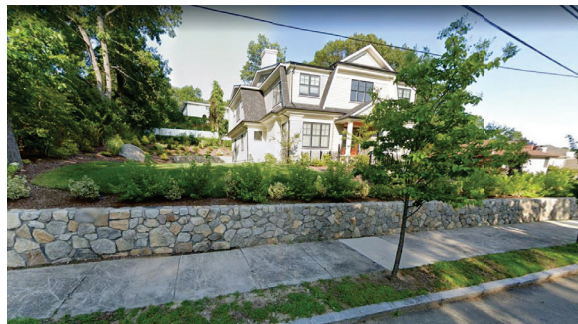
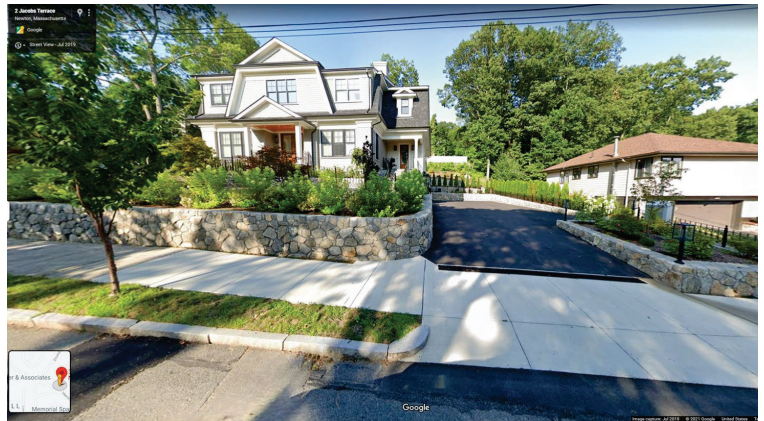
Large retaining walls present aesthetic and safety concerns for adjacent properties





After

Before



Before



After



Potential Solutions

Straight Forward

- Require special permit for retaining walls or series of retaining walls exceeding 4' anywhere on the property

Complex

- Measure height from existing grade or a fixed point such as the back of sidewalk
- Measure height along the front elevation, not average grade
- Set a maximum height for individual or terraced retaining walls
- Explore when basement counts towards FAR

Next Steps

Research past building permits to better understand the issues and how prevalent they have been

Work with Engineering and ISD to further develop possible solutions

Questions for the Committee

- Are we missing any related issues?
 - Which of these issues are of greatest concern?
 - Aesthetics (building height and massing, views of retaining walls)?
 - Retaining wall safety?
 - Stormwater runoff?
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