



Zoning & Planning Committee Report

City of Newton In City Council

Monday, February 26, 2024

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

Also Present: Councilors Leary, Lobovits, Kelley, Farrell, Block, and Malakie

City Staff: Barney Heath, Director of Planning, Alyssa Sandoval, Deputy Chief Planner of Current Planning; Anthony Ciccariello, Commissioner of Inspectional Services; Ann Berwick, Co-Director of Sustainability; Bill Ferguson, Co-Director of Sustainability; Liora Silkes, Energy Coach; Jonah Temple, Deputy City Solicitor; Andrew Lee, Senior Assistant City Solicitor; Jennifer Wilson, Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; 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 26, 2024 \(youtube.com\)](https://www.youtube.com/watch?v=...)

#49-24 Adoption of an ordinance requiring electrification of all new construction and substantial renovations

HER HONOR THE MAYOR AND COUNCILORS ALBRIGHT, DANBERG, LEARY, HUMPHREY, KALIS, DOWNS, LIPOF, WRIGHT, MICLEY, BIXBY, AND GETZ requesting possible adoption of an Electrification Ordinance that would require all new construction and substantial renovations in Newton to be all-electric, effective January 1, 2025. This is in conjunction with the City's recent conditional approval by the State Department of Energy Resources (DOER) for participation in the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project, also known as the Ten Communities Program.

Action: **Zoning & Planning Held 7-1 (Councilor Kalis Opposed)**

Note: Ann Berwick, Co-Director of Sustainability, presented the attached presentation and noted that the proposed ordinance would require all new construction and substantial renovations to be fully electric. The draft ordinance that was provided in the packet outlines the definition of a major renovation and outlines the exemptions and waiver provisions. The proposed effective date of this ordinance is January 2025. The Ten Communities Program was created by the State Legislature in response to a series of home rule petitions from various municipalities seeking to require electrification of all new construction and substantial renovations. Newton had approved the initial home rule petition in March 2022 with the

Zoning & Planning Committee unanimously voting to submit the draft ordinance for review by DOER (Department of Energy Resources) for participation in the Ten Communities Program. The attached presentation also details how electrification is more affordable than fossil fuels for new construction along with how the specialized energy code encourages electrification already. Ms. Berwick in her presentation also noted the types of renovations covered under this ordinance and the exemptions within the ordinance.

Councilors asked questions regarding the waiver provision. Ms. Berwick stated that this provision is in the ordinance to help address concerns that members of the public had regarding the ordinance. Anthony Ciccariello, Commissioner of Inspectional Services, noted that the Inspectional Services Department would review all waiver requests and would require proof that the cost of complying is at least 50 percent greater than complying with the specialized energy code.

The Public Hearing was opened.

Peter Barrer, 60 Endicott St, stated support for adopting this ordinance and noted that participation in this program would be beneficial for the City.

Kathy Pillsbury, 34 Carver Rd, noted support for the proposed ordinance and stated how this will help Newton achieve its climate goals.

Cindy Callaway, 83 Grove Hill Ave, is affiliated with Mothers Out Front and noted the need to transition away from fossil fuels. She also noted increases in clean energy production and how this will help Newton respond to climate change.

Stephen Friedenthal, 329 Parker St, stated opposition to the ordinance citing that it would not have a meaningful impact on climate change. He also noted concerns with the electric grid having insufficient capacity to accommodate this increased demand.

Liv Sousa, 510 Lowell Ave, is a member of Gen Z and noted how young people are particularly vulnerable to climate change. She further stated that Newton's participation in this program will make some difference in addressing climate change.

Dan Ruben, 175 Auburn St, is a member of the Green Newton Building Standards Committee and noted support for the adoption of the ordinance. He described that new developments are already beginning to transition to all-electric and that the adoption of BERDO in Boston helped accelerate this transition.

Dan Powdermaker, 119 Lincoln St, noted support for the adoption of the ordinance.

Greg Reibman, 10 Mayflower Terrace, is the President of the Charles River Chamber of Commerce and noted a memo that was sent to the Committee in advance of the meeting

recommending amendments to the proposed ordinance. He spoke in support of participation in this program to help reduce fossil fuels and noted how it is easier to go all-electric in a new development rather than a retrofit. Mr. Reibman also recommended that a waiver provision be added that electrification of a project is not required if the electric grid does not have adequate capacity.

Mary Ann Payne, 12 Kappius Path, urged the adoption of the proposed ordinance.

Deb Crossley, 26 Circuit Ave, is the former Chair of the Zoning & Planning Committee and noted support for the ordinance. She further stated how this ordinance is not a ban on fossil fuels and that this ordinance has multiple exemptions. Support was also echoed for the waiver provision proposed by Mr. Reibman.

Eric Davis, 322 Franklin St, is opposed to the adoption of the ordinance noting difficulties cooking with electricity instead of gas.

Jonathan Kantar, 673 Chestnut St, is a member of the Newton Citizens Commission on Energy and owns a construction company. He urged for the adoption of this ordinance and cited how electricity is more efficient and more cost-effective compared to fossil fuels.

The public hearing was closed via a unanimous vote on a motion from Councilor Kalis.

Ms. Berwick noted that she has been in consultation with the state and electric grid regulators regarding grid capacity to accommodate this increased demand. They have assured her that the grid can accommodate this increase in demand and improvements are being made to further increase this capacity. She also described that currently, 50% of our energy production is from non-carbon emitting sources. The Chair recommended that the discussion be continued at the next meeting due to amendments that were sent to Councilors shortly before the meeting.

Councilors voted 7-1 (Councilor Kalis Opposed) on a motion to hold from Councilor Krintzman.

#74-24 Discussion Regarding 40B Process Post 'Safe Harbor' Designation
COUNCILORS OLIVER, BAKER, AND WRIGHT requesting a discussion with the Law and Planning departments regarding the process going forward for 40B projects since meeting the 10% 'Safe Harbor' designation. The discussion should address the different parameters that can or will be used to accept, deny and modify projects and the criteria allowed to be used by ZBA or any other approving authority.

Action: **Zoning & Planning Voted No Action Necessary 8-0**

Note: The Chair noted the previous discussion where the Committee posed questions for the Law Department to respond to in advance of this meeting. Jonah Temple, Deputy City

Solicitor, outlined that the City has just met the 10% safe harbor threshold which allows the ZBA (Zoning Board of Appeals) to enact safe harbor on a project-by-project basis. A memo was provided to Councilors in the Friday Packet proceeding this meeting that outlined the process for the ZBA now that the safe harbor threshold has been reached.

Councilors asked questions on the timeline of enacting safe harbor, what the ZBA can do when invoked, and what right to appeal the applicant has if a project is denied. Attorney Temple noted that the ZBA has 15 days to invoke safe harbor status which gives the ZBA similar abilities to that of the Land Use Committee on a special permit. When safe harbor is invoked the ZBA can place restrictions on a project and can also deny a project. Regarding the right of appeal, Attorney Temple stated that if a project is denied the applicant has no right of appeal.

Committee members voted 8-0 on a motion of No Action Necessary from Councilor Kalis.

Referred to Zoning & Planning and Finance Committees

#87-24 Update Project Review Fees

HER HONOR THE MAYOR requesting discussion and possible ordinance amendments to update fees related to special permit, zone change, and site plan review fees requested by the Planning Department, City Clerk's Office, and Law Department.

Action: **Zoning & Planning Approved 7-0-1 (Councilor Albright Abstaining)**

Note: Alyssa Sandoval, Deputy Chief Planner for Current Planning, presented the attached presentation (attached) and noted that this proposal would be to update fees related to special permits, zone changes, and site plan review. This proposal is being made due to the current fee schedule often not covering the direct cost of noticing requirements, these fees not being updated in over a decade, and the site plan review for the VCOD needs to be added to the fee schedule. The Planning Department conducted an extensive analysis of internal expenditures and the staff time required for a project. In looking at other communities, the Planning Department found that the size of the fee was based on the size of the project. The attached presentation provides a chart of the existing and proposed fees along with a table of fee examples for a variety of projects.

A Councilor asked if staff could speak to the impacts these new fees could have on the amount of development occurring within the City. Ms. Sandoval noted the work done to compare these fees with similar communities to make sure we were in line. Commissioner Ciccariello added that the Inspectional Services Department has not had an applicant raise concerns regarding these in his time with the Department. A Councilor expressed concern with the fee for accessory apartments citing that it could cause a decrease in the development of them. A Councilor also asked if the proposed fee amounts are linked to the work done for the project. Attorney Temple stated that a fee needs to be based on covering the cost incurred by the City for the services performed and is confident that the proposal satisfies this.

Regarding the frequency of revisiting these fees, Ms. Sandoval recommended that the Council revisit these fees every five years. The Chair noted that this review could be part of the recodification process that the Council undergoes every five years.

Councilors voted 7-0-1 (Councilor Albright Abstaining) on a motion to approve from Councilor Krintzman.

#86-24 Request for a pre-budget planning discussion
COUNCILORS BAKER, OLIVER, MALAKIE, KALIS, GETZ, LUCAS, LOBOVITS, AND WRIGHT requesting a preliminary discussion with the Planning Department, Inspectional Services Department and CPA Program Manager to prepare for the Committee's FY25 Budget Review of these Departments and Programs.

Action: **Zoning & Planning Held 8-0**

Note: The Chair noted that this item is not designed to facilitate a detailed discussion on the budget of each department but to enable Councilors to get a better sense of each department. Director Heath noted that he is happy to answer any questions and that Mollie Hutchings, CPA Program Manager is in attendance to answer any questions regarding CPA funds. A Councilor asked questions on how budget requests are initiated and how the goals and outcomes sections of each budget are created. Director Heath outlined the process which takes the course of multiple meetings to determine needs for the Department and discusses what the Department would like to accomplish in the upcoming fiscal year. Jonathan Yeo, Chief Operating Officer, stated that this is a bottom-up approach where each line item of the budget along with the goals and outcomes are evaluated and refined iteratively through this series of meetings. A Councilor also asked if the Planning Department was looking at hiring more staff to help with the implementation of the Village Center Overlay District (VCOD). Director Heath noted that the Planning Department is coordinating with ISD on effective implementation and does not foresee the need for additional staffing at this point.

Committee members voted 8-0 on a motion to hold from Councilor Krintzman.

#89-24 Reappointment of Denise Chicoine to the Zoning Board of Appeals
HER HONOR THE MAYOR reappointing Denise Chicoine, 275 Islington Road, Newton as an associate member of the Zoning Board of Appeals for a term of office set to expire on January 10, 2025. (60 Days: 04/05/2024)

Action: **Zoning & Planning Approved 8-0**

Note: The Chair noted the reappointments extensive resume and opened the discussion to questions the Committee has for the applicant. Denise Chicoine joined the Committee and was asked how she would determine whether or not to invoke safe harbor. Ms. Chicoine noted that each project would be reviewed on its individual merits and believes that the ZBA should be able to exercise discretion. Committee members voted 8-0 on a motion to approve from Councilor Krintzman.

#88-24 Reappointment of Lei Reilley to the Zoning Board of Appeals
HER HONOR THE MAYOR reappointing Lei Reilley, 130 Pine Street, Newton as an associate member of the Zoning Board of Appeals for a term of office set to expire on January 10, 2025. (60 Days: 04/05/2024)

Action: **Zoning & Planning Approved 8-0**

Note: Lei Reilley joined the Committee and described her prior involvement in the City and agrees with the previous applicant on each project needing to be evaluated individually on its merits. Councilors noted support for the reappointment and voted 8-0 on a motion to approve from Councilor Krintzman.

The meeting adjourned at 9:19 pm.

Respectfully Submitted,

R. Lisle Baker, Chair

Proposed Electrification Ordinance

Ann Berwick, Co-Director of Sustainability
February 26, 2024



Content of Proposed Ordinance



- New Construction and major renovation projects must electrify:
 - Heating and cooling systems
 - Cooking
 - Clothes-drying appliances
 - Hot water
- Defines major renovations
- Includes exemptions and waiver provision
- Proposed effective date January 2025



History/Relationship to the “Ten Communities Program”

- From Home Rule Petitions to Ten Communities – a dozen meetings over 5 years
- Past approvals of the proposed ordinance by the City Council, including:
 - Vote in March 2022 to submit an electrification Home Rule Petition (approved 7-1 by Public Facilities; 23-0-1 by the Council)
 - Vote in June 2023 by ZAP to submit draft ordinance to participate in the Ten Communities Program (approved 7-0)
- DOER has fully approved for participation in Ten Communities: Acton, Aquinnah, Arlington, Brookline, Cambridge, Concord, Lexington, and Lincoln

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Why Electrify?



- The only way to clean our energy use
- Clean, safe, and highly efficient
- Fossil fuels in New England’s generation mix – about half, and decreasing
- Electrification required: San Francisco, Seattle, Oakland, Sacramento, New York State

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Cost of Building All-Electric

- Electrification is affordable, especially for new buildings
 - A [DOER study](#) found all-electric new residential construction costs less than gas new residential construction when incentives are included in the analysis, for all types of new residential construction
- Makes no sense for new construction to use fossil fuels
- Resources provided
 - Trainings and incentives from Mass Save

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Proposed Electrification Ordinance vs. New “Specialized” Building Codes



- Specialized Buildings Codes effective in Newton in January 2024
 - Applies to all new construction and major renovations
- The Codes themselves encourage electrification
 - Health and environmental concerns encourage electrification as well
- If fossil fuels are used, the Codes require:
 - More stringent efficiency standards
 - Pre-wiring to provide infrastructure for fully electrifying the building

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Renovations

- More concerns raised
- Low Rise Residential Major Renovation:
 - Additions over 1,000 square feet
 - Additions exceeding 100% of the existing conditioned floor area
 - Renovations exceeding 50% of the existing conditioned floor area and 1,000 square feet
- All Other Building Types Major Renovation:
 - Additions over 20,000 square feet
 - Additions exceeding 100% of the existing conditioned floor area
 - Renovations exceeding 50% of the existing conditioned floor area and exceeding 20,000 square feet
- The same thresholds that trigger compliance with the Stretch and Specialized Building Codes

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Waivers



If a building professional on the project certifies that compliance with the electrification requirement would increase the costs of the project by 50% or more, compared to the costs of complying only with the requirements of the applicable building code.

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Exemptions

- By statute:
 - Research laboratories
 - Hospitals and medical offices
- By Newton request:
 - Freestanding outdoor cooking and heating appliances that are not connected to the building's natural gas or propane infrastructure
 - Emergency generators
 - In certain circumstances, appliances to produce domestic hot water from centralized systems in large commercial buildings

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: February 22, 2024
TO: Zoning Board of Appeals
FROM: Jonah Temple, Deputy City Solicitor
RE: Chapter 40B Safe Harbor Status

As Newton reached Chapter 40B safe harbor status for the first time on January 8, 2024, this memorandum sets forth initial guidance on the implications of this milestone for the Zoning Board of Appeals (ZBA) moving forward. More information on how the safe harbor is calculated can be found in the January 4, 2024 Safe Harbor Status memo [here](#). Additional guidance will be provided at the time of the next comprehensive permit application.

1. Chapter 40B and the “Housing Unit Minimum” Safe Harbor

Chapter 40B is a state law that facilitates the construction of affordable housing by removing obstacles and streamlining the permitting process for development projects that include a minimum amount of affordable housing. The law establishes a consolidated local review and approval process that authorizes the ZBA to issue a “comprehensive permit” encompassing all local ordinances and regulations. Chapter 40B gives the ZBA authority to waive zoning and other local permitting requirements for such projects. To qualify for a comprehensive permit, 25% of the units in a proposed project must be affordable up to 80% AMI or 20% of the units must be affordable up to 50% AMI.

Chapter 40B also allows municipalities to invoke various safe harbors if they are providing their fair share of affordable housing. Once a safe harbor has been met, it allows the ZBA to deny a comprehensive permit application as “consistent with local needs” and that decision will not be appealable to or overturned by the Housing Appeals Committee.

The City of Newton recently reached the Housing Unit Minimum safe harbor, achieved when a municipality’s housing units eligible for inclusion on the state’s Subsidized Housing Inventory (SHI) exceed 10% of its total housing units.

The City’s attainment of safe harbor status does not prohibit the filing of future comprehensive permit applications with the ZBA. Nor does it deprive the ZBA of the ability to grant additional comprehensive permits. Chapter 40B still requires that the ZBA deliberate about whether to impose or override local zoning laws regardless of whether the City has satisfied its minimum affordable housing obligation. Therefore, even if the City has met a safe harbor, comprehensive permit applications may still be submitted to the ZBA and the ZBA must determine whether to

invoke the safe harbor within 15 days of opening a public hearing and then proceed with the public hearing.

2. No Impact on Pending Applications

The City's attainment of safe harbor status is based on the City's calculation on the date that a comprehensive permit application is filed with the ZBA. Currently there are three comprehensive permit applications pending in front of the ZBA: 529 Boylston Street, 41 Washington Street, and 78 Crafts Street. Because the City had not reached the safe harbor at the time those applications were filed, the ZBA could not have and did not invoke safe harbor status. This means that the City's recent achievement of safe harbor status has no impact on the ZBA's ongoing review of those projects.

3. Recalculation of Safe Harbors for Next Application

The safe harbor calculations are not static and routinely fluctuate. Housing properties are routinely added and removed from the City's list of SHI eligible housing units in accordance with the regulations and guidelines issued by the Massachusetts Executive Office of Housing and Livable Communities (HLC)—previously known as the Department of Housing and Community Development (DHCD). Because the relevant inquiry is whether the City is at safe harbor status on the date an application is filed with the ZBA, the first step upon the filing of the next comprehensive permit application will be for staff to update the City's safe harbor calculation based on the current state of SHI eligible housing units at the time of filing. As that calculation fluctuates based on several factors, it is possible the City may not be at safe harbor status when the next comprehensive permit application is filed.

4. Procedure to Invoke the 40B Safe Harbor

When the next comprehensive permit application is filed, the ZBA will schedule and open a public hearing within thirty days as it normally does. Prior to the public hearing, staff will update the City's safe harbor calculations and present them in a memo to the ZBA. If a safe harbor has been reached, at the start of the first public hearing, the ZBA should vote on whether to invoke safe harbor status. The determination is up to the discretion of the ZBA. A vote to invoke the safe harbor means that the ZBA believes that denial of the comprehensive permit would be consistent with local needs because it has reached a safe harbor. However, this vote does not act as an actual denial of the comprehensive permit. Following this vote, the ZBA will continue its review of the proposed project. Continuing to review the project on the merits does not preclude the ZBA from ultimately denying the application on the basis of safe harbor status.

5. Appeal of Safe Harbor Status

If the ZBA votes to invoke safe harbor status, following the first public hearing staff will prepare and send written notice of that determination to the applicant. That notice will include the data used by the City to calculate the safe harbor and all supporting documentation. The applicant can challenge the ZBA's assertion of the safe harbor by filing an appeal with HLC within 15 days.

HLC will review the materials provided by both parties and issue a decision. During this process, the ZBA has the burden of proving that the City has met the safe harbor.

After HLC issues its decision, either the ZBA or the applicant can appeal the decision to the Housing Appeals Committee, the HLC's adjudicatory body. That appeal will be heard and determined through an evidentiary hearing in accordance with the Committee's procedural regulations. During this appeals process, the ZBA's hearing on the comprehensive permit is stayed until the conclusion of the appeal.

6. Review of Application after Invoking Safe Harbor Status

If the applicant chooses not to appeal the ZBA's safe harbor determination, or if the safe harbor determination is upheld on appeal, the ZBA has significant discretion in reviewing the application. The ZBA may exercise its discretion to apply local zoning regulations and deny the comprehensive permit application without risk of the denial being overturned on appeal by the Housing Appeals Committee. At the same time, the ZBA also retains discretion to override or waive local zoning laws and issue the comprehensive permit after a safe harbor has been reached.

The review criteria for the ZBA does not change based on attainment of a safe harbor. The ZBA must still review the project to determine whether imposition of the City's local regulations is "consistent with local needs." This requires the ZBA to balance the regional need for affordable housing with the local concerns impacted by the proposed project.

Without safe harbor status, there is a presumption that the need for affordable housing outweighs local concerns—meaning there is a presumption that imposition of local zoning laws is *inconsistent* with local needs and should be waived through issuance of a comprehensive permit. After safe harbor status that presumption disappears. However, even after safe harbor status is reached, the ZBA may still decide that, based on the continued need for affordable housing, imposition of local zoning laws would still be inconsistent with local needs. Such a determination would allow the ZBA to grant a comprehensive permit after attainment of safe harbor status.

Therefore, the ZBA's review of a project after attaining safe harbor status will consider the same matters as it has under its traditional review: health and safety issues, site and building design, and preservation of open space. The practical difference is that review under safe harbor status gives the ZBA significant control over the project that it would not otherwise have under its review prior to safe harbor status. Because the ZBA has the discretion to deny the project based on safe harbor status, the ZBA has greater ability to require modifications or place conditions on the project if it decides to issue a comprehensive permit. If the ZBA ultimately decides to approve the project with conditions, it can do so without concern of whether those conditions make the project uneconomic. Even if the conditions make the project uneconomic, those conditions will be allowed because they will be conclusively presumed to be consistent with local needs.

Ultimately, regardless of safe harbor status, the ZBA retains discretion to decide whether or not to impose local zoning requirements.

7. Frequently Asked Questions

Can the filing of a comprehensive permit application be timed to a period when the City briefly drops below safe harbor status?

Technically, yes. If the City is below safe harbor status at the time the application is submitted, then the safe harbor does not apply to that project. However, prior to filing an application with the ZBA, applicants must first go through a month's long application and approval process with a subsidizing agency and be issued a determination of Project Eligibility. The subsidizing agency's approval of project eligibility expires after two years.

What happens if a comprehensive permit application is filed when the City is below the safe harbor, but the proposed project has more units than is needed to reach the safe harbor?

If the City has not achieved a safe harbor at the time of the application, then the ZBA cannot invoke safe harbor status and the project must be reviewed under the traditional standards for a comprehensive permit. The impact that project will have on future safe harbor calculations is irrelevant.

Can a Chapter 40B comprehensive permit application go to the City Council for approval? Who decides if the City Council or the ZBA reviews a 40B project?

Applications for comprehensive permits under Chapter 40B are within the exclusive jurisdiction of the ZBA. Chapter 40B gives the ZBA sole authority to issue a comprehensive permit for projects that contain the law's minimum required amount of affordable housing. This authority allows the ZBA to waive zoning requirements and other local regulations for such projects. Projects seeking a comprehensive permit under Chapter 40B cannot go before the City Council for approval.

It is up to landowners and developers to decide whether to seek approval of a multi-family project pursuant to a comprehensive permit issued by the ZBA or through a special permit issued by the City Council. There are many differences in project requirements and review process for comprehensive permits compared to special permits. For instance, comprehensive permit projects have greater affordability requirements and can request the waiver of zoning requirements, while special permit projects must comply with the City's zoning regulations and meet the affordable requirements set forth in the inclusionary housing provisions of the City's zoning ordinance.

How often does the City need to recalculate the SHI?

Every time a comprehensive permit application is filed with the ZBA.

Does the State need to certify that the City has met the safe harbor designation?

No, the state does not need to certify that the City has met the safe harbor designation in order for the ZBA to invoke the safe harbor. However, as set forth above, the state, either through HLC or the Housing Appeals Committee, will need to confirm the City's safe harbor calculation if it is challenged by an applicant.

Are there specific timelines for the ZBA approval process for a 40B project?

The ZBA is required to open the public hearing no later than 30 days from the date the comprehensive permit application is filed with the ZBA. If the ZBA believes it can deny the permit on safe harbor grounds, it must give written notice to the developer and HLC no later than 15 days from the opening of the public hearing. For this reason, the ZBA's decision whether to invoke safe harbor status and provide such written notice must be made at the first public hearing. Within 180 days from the opening of the public hearing, the ZBA must close the public hearing, and within 40 days from the close of the public hearing the ZBA must render a decision and file its written decision with the City Clerk. (In comparison, there is no time limit for the City Council to close a public hearing on a special permit application.)

Some of these 40B deadlines may be extended with the written agreement of the applicant. The same deadlines will apply regardless of safe harbor status, provided that an appeal of the ZBA's safe harbor determination will toll the 180-day deadline to close the public hearing.

City of Newton Planning and Development



Docket Item #87-24

Update Project Review Fees

2/26/2024

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Background

- + Need to review updating planning permit fees because...
 - They often do not even cover the direct costs of the public noticing requirements
 - Over a decade since they were last reviewed/updated
 - May not be in line with other neighboring communities
 - New VCOD ordinance has a new site plan review component that needs to be included in fee schedule

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Planning Analysis of Internal Expenditures/Effort for Planning Permit Fees

- + Analysis for Special Permits and Site Plan Review
 - Review Effort for Projects varies based on projects of different sizes - may include transportation, engineering/stormwater, affordable housing, legal, etc.
 - Memo includes the typical staff level of effort/time for various sized projects - small, medium, large, and very large
 - Estimate of Planning, Law, and City Clerk's Staff time included
- + Public Noticing
 - Expenses for public noticing - hearing, abutters notice, advertising, and mailing exceed \$400 per special permit

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Planning Analysis of Internal Expenditures/Effort for Planning Permit Fees (continued)

- + New Site Plan Review for VCOD
 - Need to include a new fee for projects that fall under this new category of review due to the new ordinance
- + Review of Other Communities Permitting Fee Structures (Cambridge, Brookline, Burlington, Somerville, Watertown)
 - Fees mostly higher in other communities than City of Newton because they differentiate project review based on size of project - the larger the project, the larger the fee

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Existing and Proposed Fees

Type of Filing	Current	Proposed
Special Permit and/or Site Plan approval in Residential District (except accessory apartments)	\$350; plus \$100 for each new unit to a max of \$2,500;	\$1,000; plus \$50 per 1,000 sq. ft. of gross floor area (GFA) in Residential/VCOD/Business/Mixed Use/Manufacturing Districts
Special Permit and/or Site Plan approval in Business/Mixed Use/Manufacturing Districts	\$750	\$1,000; plus \$50 per 1,000 sq. ft. of GFA in Residential/VCOD/Business/Mixed Use/Manufacturing Districts
Change of Zone Petitions	\$350	\$1,000
Administrative Site Plan Review	\$350	\$500
Signs Special Permit	\$350	\$500
Accessory Apartments Special Permit	\$250	\$500
(New) Site Plan Review fee for Village Center Overlay District	None	\$1,000; plus \$50 per 1,000 sq. ft. of GFA in VCOD District
(New) Parking waiver of 10 or fewer spaces	Does not exist as separate special permit criteria	\$500
(New) Special Permit in Residential districts for extension of non-conforming only or FAR only	Does not exist as separate special permit criteria	\$500
(New) Project Revision Fee (Requiring Renoticing)	None	\$500

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Next Steps

- Policy input and recommendations from the Zoning and Planning Committee
- Presentation, review, and decision by the Finance Committee



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Fees Examples Based on Project Type

Type of Project	Examples	Current Planning Permit Fee	Proposed Planning Permit Fee (Under Proposal)
Change of Zone and Special Permit in Commercial District	Large Development: 34 Crafts St, New Senior Living Facility -214,764 gross floor area -rezoning from Manufacturing to Business Use 4	\$750 (special permit) + 350 (rezoning)= \$1,100	\$11,738.20 (special permit) + \$1,000 (rezoning) = \$12,738.20
Change of Zone and Special Permit in Residential District	Large Development: 11 Florence St, New Senior Living Facility -91,133 gross floor area -rezoning from Multi-Residence 1 to Business Use 4	\$350 (special permit in residential district) + \$350 (rezoning)= \$700	\$5,556.65 (special permit) + \$1,000 (rezoning) = \$6,556.65
Change of Zone and Special Permit in Commercial District	Medium Project: 1314 Washington St, New Residential Development -74,518 gross floor area -rezoning from Business Use 1 to Mixed Use 4	\$750 (special permit in commercial district) + \$350 (rezoning)= \$1,100	\$4,725.90 (special permit) + \$1,000 (rezoning)= \$5,725.90
Special Permit in Residential District	Medium Project: 2202 Commonwealth Ave, New Residential Development -four single-family attached dwellings -7,278 gross floor area -Multi-residence district	\$350 (special permit in residential district)	\$1,363.90 (special permit in residential district)
Parking Waiver (10 Stalls or Less)	Minor Project: 47 Lincoln St, New Small Business -Small yoga studio needed a parking waiver when the site did not have enough parking	\$750 (special permit in commercial district)	\$500 (parking waiver of 10 stalls or less)
Sign Special Permit	Minor Project: 269-286 Grove St, New Sign -new free-standing sign is proposed for an existing business	\$350 (sign special permit)	\$500 (sign special permit)
Special Permit in Commercial District and Rezoning	Very Large Project (1M sf), such as Northland Development	\$750 (special permit) + \$350 (rezoning): \$1,000.00	\$51,000 (special permit) + \$1,000 (rezoning)= \$52,000.00
Special Permit in Residential District	Medium Residential Project (10-50 units; approx. 20,000 sf)	\$350 (special permit)	\$2,000 (special permit)
Special Permit for FAR or extension of non-conformity only	Minor Project: FAR or extension of non-conformity only for residential home	\$350 (special permit)	\$500 (special permit)