



Ruthanne Fuller  
Mayor

Barney Heath  
Director of  
Planning & Development

Malcolm Lucas  
Housing Planner

*Members*

Esther Schlorholtz, Chair  
Donna Rigg, Vice-Chair  
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## CITY OF NEWTON, MASSACHUSETTS

### Fair Housing Committee

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## MEETING AGENDA

Date: April 3, 2024  
Time: 8:30 a.m.  
Place: Virtual (Zoom)

**Zoom Online Meeting:** <https://newtonma-gov.zoom.us/j/82480731634>

The Fair Housing Committee will hold this meeting as a virtual meeting on Wednesday, April 3, 2024, at 8:30 am. No in-person meeting will take place at City Hall. To view and participate in this virtual meeting on your smartphone, download the "ZOOM Cloud Meetings" app in any app store or visit [www.zoom.us](http://www.zoom.us). At the above date and time, click on "Join a Meeting" and enter the following: **Meeting ID: 824 8073 1634.**

You may also join the meeting from your smartphone by dialing 1(309) 205-3325 and entering 82480731634# For audio only, call 1(309) 205-3325 and enter **Meeting ID: 824 8073 1634.**

To view and participate in this virtual meeting on your computer, at the above date and time, either copy the attached link into your browser or visit [www.zoom.us](http://www.zoom.us), click "Join a Meeting" and enter the following **Meeting ID: 824 8073 1634.**

To view meeting documents, [click here](#).

1. **Approval of March 2024 minutes**
2. **Inclusionary Zoning Ordinance Discussion**
3. **Fair Housing Training Plans Update**
4. **Resident Experience Update**
5. **Fair Housing Project Reviews**
6. **Subcommittee Updates**
  - **Lottery Results & Lease-ups Sub-Committee**
  - **Membership & Nominating Sub-Committee**

- **Fair Housing Award Sub-Committee**

## **7. Fair Housing Committee Priorities Discussion**

### **FH Protected Groups**

- **Promote housing choice for diverse populations to advance Affirmatively Furthering Fair Housing (AFFH), with focus on race/ethnicity, public subsidy, family status, and disability**
- **Promote Diversity, Equity, Inclusion and Belonging in Newton**
- **Promote effective processes/practices for new affordable homeownership and resales**
- **Promote improved practices for real estate professionals to achieve more housing choice for diverse populations**
- **Identify and work to overcome barriers to successful tenancies and to improve processes/practices for tenant selection in lottery and market rate multifamily rental housing**

### **Learning/Teaching**

- **Enhance FH literature and website information and access for the public**
- **Promote FH training for real estate professionals, landlords, tenants, the public and committee members**

### **Data and Analysis**

- **Promote data collection on multi-family rental and new homeownership occupancy**
- **Enhance Project Review of Housing Developments to advance AFFH**
- **Support AI/Consortium Fair Housing Testing and FH testing in Newton**

### **Collaboration**

- **Collaborate with Related Newton Commissions and Committees to increase affordable housing for households of various sizes and lower incomes and to encourage increased funding for affordable housing**
- **Promote affordable housing production in coordination with other City commissions and committees**
- **Support federal, state and city initiatives that promote AFFH**
- **Collaborate with Human Rights Commission on Fair Housing Complaint Process**
- **Contribute to Newton's FH-related plans**
- **Address committee membership appointments with representation from Human Rights Commission and legal counsel with FH specialty**

### **Next meeting Wednesday, May 1, 2024**

\*Supplementary materials are available for public review in the Planning Department of City Hall (basement) the Friday before the meeting. For more information contact **Malcolm Lucas at 617.796.1149**. The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711



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## CITY OF NEWTON, MASSACHUSETTS

### Fair Housing Committee

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## MEETING MINUTES

Date: March 6, 2024

Time: 8:30 a.m.

Place: Virtual (Zoom)

**Members Present:** Esther Schlorholtz, Chair

Judy Korzenowski

Josephine McNeil

Tatjana Meschede

Alex Weiffenbach

Steve West

**Members Absent:** Donna Rigg, Vice Chair

**Staff Present:**

Malcolm Lucas, Housing Planner

Jini Fairley, ADA/Sec. 504 Coordinator

Lara Kritzer, Director of Housing and Community  
Development

**Public Present:**

Sharyn Roberts, League of Women Voters Newton

Tom Schultz, Toll Brothers

Kathy Winters, Toll Brothers

William Adams, Toll Brothers

Stephen Buchbinder, Attorney

Pam Wright, Council

Julia Malakie, Council

Malcolm Lucas, Housing Planner served as recorder, Esther Schlorholtz, Chair, called the meeting to order at 8:30 a.m.

To view meeting documents, [click here](#).

### 1. Approval of February 2024 minutes



- Upon a motion by TM, JK seconded the motion. The February 2024 minutes were approved 6-1-0, with one member absent.

## 2. 528 Boylston FH Project Review

- KW gave a brief overview of 528 Boylston Street. It's comprised of seven parcels constituting 5.82 acres. She stated that they have received approval from Mass Housing in February 2023. They have filed for a comprehensive permit with the Zoning Board of Appeals in April 2023. She stated that they have had five meetings before with the ZBA since then and will go back again Wednesday, March 13<sup>th</sup>.
- KW stated that there have been significant changes from the feedback they received from the ZBA members and the Newton community. The project has gone from 244 units to 184, a reduction of 60 units. The floor area has been reduced from 493,000 square feet to 361,000 square feet. There was an increase in the number of 3-bedroom units in the development by 31 units. The parking also has been reduced to get a ratio of 1.28 stalls per unit. Out of the 184 units there will be 46 affordable units (25%). The requirement is to have the affordable units at 80% Area Median Income (AMI) and they are working towards 9 of the affordable units being at a deeper affordability level at 50% AMI. Three of the 3 bedrooms will be at 50% and the other 13 will be at 80% AMI.
- KW stated that there will be 10 accessible units, seven of them will be market rate and three will be affordable. They have not determined the exact unit mix of the accessible units. This will happen closer to the final approval, but-all the remaining 174 units are adaptable.
- KW then discussed the developer's ranking of the FHC's fair housing scorecard.
  - Affordability – 0 points, the number of below-market units will equal the requirements.
  - Accessibility – 0 points, the number of units will equal the requirements.
  - Visibility – 3 points, all housing will meet all three criteria.
  - Proximity to Employment – 1 point, development is ½ a mile from commercial or major employment.
  - Proximity to Public Transportation – 1 point
  - Discretionary Impact – 3 points
- ES identified the inclusion of 9 apartments for people at 50% AMI and said that this would represent a higher score on affordability because the threshold requirement is to provide 25% of units, all at the higher income of 80% AMI. She said there is a particular need to house households at lower incomes who are severely underserved. She also noted the increase of the higher number of 3-bedroom units by 31 as being a positive outcome for families. She said that family status is included as a Fair Housing protected class and it is a group that is often underserved.
- JF clarified that all Chapter 40B projects can choose initially to do 20% of units at 50% AMI or 25% at 80% AMI. She said that developers can choose to do fewer units at lower incomes. She said she appreciated that the developers would do 9 units at 50% AMI. JF asked about nearby schools and-transportation including a shuttle service. SB responded and stated that there is a pedestrian connection to Langley Road, and they will be making sidewalk improvements along the front of the project. He stated that there was communication about two years ago, to create a shuttle that would be available to other

properties as well, and this would be a city shuttle. This shuttle would have to be privately funded and several properties would have to contribute in order for it to run. The route will be from the Chestnut Hill Green Line station to the Newton Center Green Line station. in connection with other projects. SB stated that in the past, we've agreed to participate in that. SB stated that it was spearheaded by the planning department's transportation staff, which is no longer working for the city, so the conversation stopped. SB stated that Toll Brother's would contribute but it is hard for one developer to take the responsibility because the cost is too expensive and not economically viable. Also, there may be a small number of people that will take advantage of it. In response to a question from JF about public transportation access, KW said she would provide the requested information. This was subsequently provided with information that the site is approximately 0.15 miles from the Route 52 bus stop that runs from Dedham to Watertown and leaves approximately every 45 minutes to an hour with service running from approximately 7 am to 7 pm. The site is also approximately 0.5 miles from the Route 60 stop at 325 Boylston Street which runs from Chestnut Hill to Kenmore and departs approximately every half hour from 5 am to midnight.

- JF asked if the subsidy for some of the affordable units can be more deeply subsidized (30% AMI). JF reviewed that the developer is providing 10 accessible units and that the other 174 units will be adaptable. She noted that the developer has proposed to allocate the accessible units proportionally among the affordable and market rate units, with 3 accessible affordable units and 7 accessible market rate units. She recommended that there be 6 affordable and more fully accessible apartments allowable because there are two different levels of affordability and three different size (BR) apartments, therefore with different rents. This recommendation would ensure that the accessible apartments are equally distributed by price/rent and size/type of apartments, and that leaves one accessible unit that the developer could choose to be either affordable or market rate. The developer said that they would consider the recommendation for accessible affordable units and would implement it provided this is legally allowable. JF offered additional guidance related to Massachusetts standards vs. other states.
- ES thanked JF for her contribution to this discussion and appreciated her expertise. ES asked JF at what point she reviews accessibility and affordability in the development process. JF stated that there is not a formal place that she fits in the process. JF stated that she is working with Planning staff informally. She states she comes in once the building is almost complete if there are complaints with inspectional services. WA described how the developer has determined the choice of affordable and accessible units and said they would like to discuss this further with JF. SB stated that they would appreciate having JF's input. He also stated that there has been substantial neighborhood opposition. SB stated he is always respectful of all parties involved. He stated that there has been great progress despite all of the pushback and changes in the development. SB recommended that JF should be involved in the city's review in the beginning stages of a project to address accessibility issues or they can meet separately because it would be easier to make changes early in the development process. JF stated that she would be happy to do that although it is not her primary role because she is only involved when there are federal funds in the project. ES asked if there are any other comments and thanked the presenters. There were no other comments or questions.

### **3. Affordable Housing Priorities Task Force Discussion**

- ES recapped what happened in the last meeting saying that this discussion will be a continuation of the earlier one so that the Committee can offer its input on how fair

housing matters may be incorporated into the Task Force recommendations. She thanked JM and TM for agreeing to represent the Committee on the Task Force. She gave a brief overview of the goals of this Task Force. The goals are to establish an accurate affordable housing inventory and identify the housing needs and goals for city funding going forward, with input from the Affordable Housing Trust Fund, Housing Partnership and Fair Housing Committee. ES stated that the question that has been asked of the FHC is how the public monies should be prioritized for city-funded affordable housing in Newton that will affirmatively further fair housing. ES asked JM if she wanted to talk about the task force or the commitment. JM said she would comment as the discussion proceeds.

- ES gave a reminder that the data analysis is about compiling accurate information on city funded affordable housing to date and that is the focus currently. ES stated that she was appreciative of the Task Force working with the city on a comprehensive tracking system. Specifically, she noted that the Task Force is working on collection of affordable housing supply and demand data in Newton to determine existing inventory and who has been served by income tier, unit/BR size (family status), age, race/ethnicity, disability (affordable and accessible), and public subsidy. The Task Force will then evaluate demand factors that place Newton within the metro and state context, which can be used to evaluate how Newton is promoting inclusion. She said that The Task Force is starting with City supported/funded housing, but there is also a need to inventory all Subsidized Housing Inventory units, and they will be working on this data collection too.
- ES stated that the scope of the Fair Housing Committee is broader than only affordable housing. ES stated that affordable housing is key because income is an important part of addressing the needs of protected classes and that there is a high correlation between the characteristics of the protected classes and income characteristics. Fair housing covers all populations, and it's about fairness in housing.
- SW said that because there is such a strong link between low income and protected class status, he recommends that the Task Force should prioritize that city funding be used to reach lower income populations, specially creating more units below 50% or 30% AMI. He said that the Task Force should also prioritize creating more accessible and affordable units, especially for those at 50% and 30% AMI. He said that, although this may not be directly related to the Task Force, he recommends that the City's 5-year review of the Inclusionary Zoning (IZ) Ordinance should incorporate an analysis of a lower threshold requirement than the current number of 7 units. He recommended that the Trust and the City should designate money to address the fair housing complaint and enforcement process. He suggested that perhaps cities and towns could join to address fair housing complaints. ES thanked him for his valuable comments. She asked ML to share the minutes of the past Committee that occurred before SW joined as a member referring to review of Newton's housing complaint process. She said this includes how the Health and Human Services Department manages the fair housing complaint process through its association with the Human Rights Commission and the Massachusetts Commission on Discrimination. She also noted that the Governor has proposed to create a state-wide fair housing office in the budget and said that hopefully that will create more efficiency and responsiveness in the complaint process as well as other matters including new resources and enforcement for fair housing.
- ES reviewed some of the Task Force results, highlighting family status (with children) as an issue. She said the Task Force analysis showed that very few family units were built over the last 10 years in contrast to housing for seniors. She said that data show families with children face discrimination in housing access. She said that Newton has a rapidly growing

aging population, and this is a valuable population to serve as well. She said that many seniors find it hard to move because of the high cost of housing in Newton and the metro area. She said the median sale price of a single-family home in Newton is \$1.7 million (requiring an income of \$417,000 to purchase). She noted that seniors downsizing can also free up more housing for new residents including families, younger people, and those of diverse backgrounds. She said that the basic problem from a fair housing perspective is that there is not enough housing for people of a variety of incomes, even for those that are upper income (120% AMI).

- ES discussed the Task Force's review of supportive housing needs for homeless and others with special service needs. She said the Task Force is also considering how Newton serves this type of housing which generally is an extremely low-income population.
- JM asked about the issue she had raised at the last meeting related to the work of the fair housing subcommittee on lottery and lease-ups. She said that the Task Force would like to integrate the work of the subcommittee, but the focus now is on data collection instead of solutions. She said there is no easy answer to her pessimism about Newton's ability to address the needs of the populations we want to serve. She said that no developers can reach extremely low-income populations without public subsidies because it is economically infeasible to do so. She said we need to find more commitment to public subsidy, including capital funds and rental subsidies, to achieve deep affordability. She said the lowest priced single-family home in Newton today on the market is about \$900,000. She said the purchase and renovation costs make the likelihood of creating affordable housing for extremely low-income people out of existing housing is nil. ES pointed to various reasons for slow production of affordable housing. She noted the conclusion by the Task Force that for a 100% affordable housing project to be eligible for Low Income Housing Tax Credits and state subsidy resources, it must get to a density of 20 plus units. She said that there has been a 65% increase in housing construction cost over the past ten or so years. She said that there are 20,000 homes stuck in Boston waiting to be built, and the same issues are affecting Newton developers, including high interest rates, increasing material and labor costs, and supply chain delays. She said the solutions for affordable housing require higher density. She said that public subsidy sources are insufficient and have decreased enormously over the years. ES said the value of collecting accurate data is to have information, on a very pragmatic basis, that allows us to know what we have done, what we have, what we can do and how we get resources to do more.
- ES reviewed Newton's demographic data and housing stock analysis. She said that the Task Force showed that in 2020 (with some data flaws in the census created by the Pandemic), Newton was 75% white, 15% Asian, 3% Hispanic and 2% Black. She said she found data on the City's website that showed Newton in 2010 was 80% white, 13% Asian, 4% Hispanic and 3% Black. She said the 1980 data showed Newton as being 95% white, 2% Asian, 1.3% Hispanic and 1.4% Black. She said that it will be important to evaluate this data and compare the metro area data that would show patterns of exclusion that Newton needs to consider as it seeks to affirmatively further fair housing. She said the cost of housing helps explain low levels of Hispanic and Black populations and stressed the importance of having housing options created in the city for people of different incomes and backgrounds. She also said that some of the causes relate to exclusionary decisions such as zoning restrictions designed to limit increasing the supply of housing, which was the primary reason the state created the MBTA Communities Act.
- JM said that the Black population is decreasing all over the country, except maybe in the South. She said that unless we deal with income inequality, we will not be able to deal

with the problem. ES said we must work on different solutions and that the cost of housing, limited ability to purchase, based on income inequalities, are fundamental to all of that. She noted that young people are not able to live in many metropolitan areas either and that metro Boston is among the most expensive in the whole country. She said that, in the absence of significant public subsidy sources, we must rely on private sector solutions like IZ to create some affordable housing opportunities. JM said the city needs to make the decision to increase funding for affordable housing, including possibly increasing the Community Preservation Act (CPA) rate.

#### **4. Fair Housing Training for Landlords and Tenants**

- ES stated that this virtual training is scheduled for June 18<sup>th</sup> at 7-8:30 pm. ES stated that she was grateful to AW and Planning for working with her. ES asked AW and JF if there were any questions on the old presentation that needed to be enhanced. ES asked ML to share the presentation with JF and AW so that they may offer recommendations. She said that Suffolk Law has agreed to offer this training again. They asked that this be a webinar zoom to ensure greater privacy for participants. ES said that the intention is to reach more tenants of the housing authority for this program, and she will be working with AW to implement that.

#### **5. Fair Housing Training for Community Policy Makers**

- ES stated that she has made progress on this topic, and she has met with Henry Korman and is looking to schedule a training on this topic for late May/June/July 2024. It has not been drafted yet and ES invited committee members who were interested in participating in working on this.
- ES is working with J.A.L.S.A. Jewish Alliance for Law and Social Action on their confronting history of housing discrimination training. ES stated that she thought that that would be a good companion piece to focus on policy makers. Their virtual training is on March 18, from 6:30 to 8pm. Citizens Housing and Planning Association is hosting, ES stated that a person who would like to sign up can go to CHAPA's webpage. ES asked if someone from the Committee could sign up because it would be helpful to have input. The training is free and on Zoom.

#### **6. Resident Experience & Training for Owners/Managers/Leasing Agents**

- ES stated that on May 1<sup>st</sup> Maloney properties will present to the FHC to receive guidance on setting up a pilot training program that the Committee will start with and to include the City. ES stated that this is about inclusion, addressing bias and having owners, managers, leasing agents be accountable to use the best practices on how to reduce the negative impacts. She said that she is very excited about all the training programs we are planning and thinks that these will provide a lot of benefits to our efforts to affirmatively further fair housing.

#### **7. Subcommittee Updates**

- **Lottery Results & Lease-ups Sub-Committee**

- TM stated that the next meeting is scheduled for March 13<sup>th</sup> and that they are waiting for information from SDI about the four recent developments. The data will be the focus of the meeting.

- **Membership & Nominating Sub-Committee**

- No update



- **Fair Housing Award Sub-Committee**

- ES stated that the date for the Shelia Mondshein Award Ceremony is on May 13<sup>th</sup> at 4pm. ES asked the Committee members to attend and the Mayor, Susan Albright and herself will be presenting. The award will be given to Deb Crossley and Vicki Danberg. She said she informed Sheila Mondshein's spouse of the award recipients, and he was pleased to learn about the awardees. She asked if any other members of the Committee wished to be part of the ceremony to let her know.

## **8. Fair Housing Committee Priorities Discussion**

### **FH Protected Groups**

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**Newton Inclusionary Zoning Ordinance – 5 Year Review**  
**Newton Fair Housing Committee (FHC) Discussion Points**  
March 13, 2024 (Esther Schlorholtz)

**Discussion Points on Newton’s Inclusionary Zoning Ordinance**

**Background**

Newton’s Inclusionary Zoning (IZ) Ordinance is designed to be a market solution, created by the city’s rising real estate values, to address limited affordable housing availability in the city. It allows Newton to tap into the gains from rising real estate values to create affordable housing for low- and moderate-income people who otherwise could not remain in or move into the city. IZ offers a private source of financing for affordable housing and leverages the capability of the private sector to build homes.

In Massachusetts and states around the nation, IZ was created as one possible solution to a history of exclusionary zoning policies that reinforced economic and racial segregation. Implementing IZ ordinances has been a way to generate affordable housing that is not dependent on public funding resources, which are both insufficient to address the need and have reduced substantially over time, while the need has increased.

Newton’s IZ program offsets the cost of providing affordable units by offering developers incentives, for example, with parking reductions or the ability to build at higher densities. Newton’s program recognizes that it is not always feasible to include affordable on-site housing within market-rate projects and so it allows developers to choose to either pay an in-lieu fee or provide affordable off-site units in another project. In-lieu payments are divided between the Newton Affordable Housing Trust and the Newton Housing Authority. These funds are then used to invest in new/renovated affordable housing.

Newton has a shortage of not only affordable units, but also of moderately priced housing for most incomes, except the very wealthy. Newton has chosen to promote the creation of moderately priced homes, as well as homes affordable to low- and moderate-income households to respond to the under-building and severe shortage of housing for lower- and middle-income households.

IZ is a valuable tool, leveraging the resources of the private sector, to promote the building of new affordable housing options, but it only works if the requirements placed on the developers are financially feasible.

**Discussion topics**

*Fair Housing Considerations*

--IZ is a market-based way for Newton to affirmatively further fair housing by increasing the supply of affordable units. By building affordable housing options for people of a variety of

incomes, fair housing protected class members of different incomes can afford to live in the city

--Protected class members that the FHC primarily focuses on include race/ethnicity, disability, family status and public source of income, but the needs of all protected classes are considered

--There is a strong correlation between income and protected class status, and therefore, the need for affordable housing is especially acute for those at 30% Area Median Income (AMI) and 50% AMI, but also for households at 80% AMI

--There is a strong need to address both affordability and accessibility for people with disability

--All protected class members are not low- and moderate-income and therefore, creating middle income affordable housing options also affirmatively furthers fair housing, reducing segregation in the city and in the state

#### *Financial feasibility*

--Carry out feasibility analysis of all proposed IZ changes to ensure there are sufficient developer incentives to efficiently build/renovate new rental/for-sale housing

--Determine what kind of barriers exist that discourage IZ housing from being built

--Are there efficiencies that could be implemented to accelerate production?

--Are there other communities in MA and elsewhere that offer ideas that could be incorporated into Newton's IZ that would increase production of IZ housing?

#### *5-year IZ performance data*

--Review 5-year performance of IZ production of rental/for-sale market and affordable units, by type, number of units, BR size, affordability levels, accessible affordable units, and populations served (as part of required reporting 5.11.13)

--Consider reducing the minimum rental/for-sale unit thresholds from current 7 to a lower number (5.11.3) if feasibility analysis indicates

--Review amounts generated through cash payments by IZ developers in lieu of building affordable units on site/off-site; based on financial feasibility analysis, determine revised amounts

#### *Affordability*

--Promote creating lower income housing from current city affordable average of 65% AMI

--Increase development of inclusionary units at 50% AMI

--Increase development of inclusionary units at 30% AMI

--Consider including option, instead of requiring a fee, for 100% middle income rental/for-sale units where all units will be occupied by households at an income determined to be middle-income (110% AMI) based on the HUD AMI calculation (Tier 2 Units)

#### *Accessibility and Affordability*

--Increase development of affordable units/apartments that are also accessible and available to households at 50% or less AMI and 30% AMI

--For buildings with 20 or more rental/for sale units, increase requirement of fully accessible units from 5% to 10% (521 CMR, group 2A standards)

*Fair Housing Data Collection*

--(As proposed by subcommittee on Lotteries and Lease-ups)

--Incorporate systematized data collection process and Fair Housing reviews to identify barriers and solutions to access by protected class members

*Address bias and exclusion concerns*

--Promote training for developers/owners/property managers/leasing agents to obtain Fair Housing training with the aim of reducing bias and exclusion experiences by renters/purchasers (as being proposed by FHC and based on Cambridge study)

*Enhance effective city management and oversight of IZ units*

--Streamline and improve City review of affirmative marketing and lottery processes, working with the state

--Create an option for developers of IZ properties to contract with a City-approved Compliance & Certification Agency to carry out affirmative marketing, lotteries, lease-ups/sales, reporting and ongoing compliance with IZ legal obligations. (Note that these are all obligations of developers but challenging for many to comply.)

--Improve City oversight and data collection to improve outcomes for lottery applicants and residents of affordable homes

--Consider establishing an annual per unit fee (like the current state oversight fee) paid by developers/owners to establish a dedicated stream of revenue to enable the City to monitor performance and oversight more effectively



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## CITY OF NEWTON, MASSACHUSETTS

### Fair Housing Committee

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**March 25, 2024**

Michael Rossi, Chairperson  
Zoning Board of Appeals  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Re: 528 Boylston Street, Newton, MA

Dear Chairperson Rossi:

At the request of Toll Bros., Inc., developer/petitioner of the proposed multifamily housing project at 528 Boylston Street in Newton, the Newton Fair Housing Committee (the "Committee") has reviewed the above-referenced proposal.

In 2015, the City of Newton agreed with the U.S. Department of Housing and Urban Development ("HUD") to "review all applicable projects for their inclusion of fair housing goals, and note in writing in all applicable project reviews a statement that 'the objectives of the City's *Consolidated Plan*, including fair housing, have been considered in this review'" as a part of the Conciliation Agreement between the City, HUD, and the Supporters of Engine 6 to resolve a fair housing complaint arising out of the City's denial of funding for affordable housing for chronically homeless individuals. That charge complements the usual review by City staff in that it is asking for review that focuses on goals and policies that are documented in the Consolidated Plan, which calls for consideration thereof, and not necessarily consistency with such goals and policies.

In September 2016, the Committee drafted a set of criteria for reviewing proposed projects with consideration of the City's fair housing goals. These criteria were revised in January 2019 and updated again in May 2020. The revised criteria in effect at the time of the presentation of the project to the Committee reflect the following ways in which developers might go beyond regulatory requirements in order to serve the City's currently documented fair housing goals:

- Going beyond the required minimum share of project housing units that are committed to being affordable;
- Going beyond the regulated minimum share of project housing units that meet housing accessibility standards;

- Providing “visitability” for housing units not required to be fully accessible;
- Developing at a site that is well located in relation to commercial services and job accessibility;
- Developing at a location close to good public transportation; and
- Going beyond the legal obligation to avoid any possible discriminatory impacts on “protected classes.”

While none of these actions are specifically required by current law or regulation, each of them would support the fair housing goals set forth in Newton’s *Consolidated Plan*, and other documents cited in it.

The developer/petitioner has applied to the Newton Zoning Board of Appeals, pursuant to Massachusetts General Laws Chapter 40B, for the issuance of a comprehensive permit to construct 184 units of rental housing (the “Project”) on approximately 5.82 acres of land located at 528 Boylston Street.

The Project will include 9 dwelling units for households earning at or below 50% Area Median Income (AMI) and 37 units for households earning between 50% and 80% of AMI.

The number of affordable, accessible, and adaptable dwelling units for studio, 1-bedroom, 2-bedroom, and 3-bedroom units are as follows:

	Studio	1 BR	2BR	3BR	Total
Number of Units	0	36	90	58	184
Percentage of Total	0	20%	49%	31%	100.0%
Average Size	-	725	1,066	1,276	
Total Affordable Units	0	8	22	16	46
Number of <50% AMI Affordable	0	2	4	3	9
Number of 50-80% AMI Affordable	0	6	18	13	37
Number of 80-110% AMI Affordable	0	0	0	0	0
Total Accessible (5.4% of total units)	0	TBD	TBD	TBD	10
Accessible – Market Rate	0	TBD	TBD	TBD	4
Accessible – Affordable	0	TBD	TBD	TBD	6
174 Adaptable (10 Accessible +174 Adaptable = 100.0% of total units)	0	34	85	55	174

The petitioner gave a presentation and answered questions from the members of the Committee regarding an earlier version of the Project at the Committee’s November 1, 2022, meeting. The petitioner returned to present the current version of the Project to the Committee at our March 6, 2024, meeting. Based on its review of the Project, the Committee offers the following comments and observations concerning the extent to which the Project supports the City’s fair housing goals, for consideration by the Zoning Board of Appeals in connection with approving a comprehensive permit for the Project.

**Affordability.** Based on the petitioner’s presentation, the Committee found that the Project exceeds the affordability regulatory requirements because of the commitment to designate 9 units at 50% AMI. The Project is qualified for Chapter 40B Project Eligibility under MassHousing’s New England Fund (“NEF”) housing subsidy program. Under the NEF housing subsidy program, the petitioner is required to designate (i) 25% of the total units as affordable to 80% AMI, or (ii) 20% of the total units as affordable to 50% AMI. The petitioner has designed the Project to meet the 25% at 80% AMI standard, which requires 46 units be affordable to 80% AMI. The petitioner has agreed to designate 9 of those units at a deeper affordability level of 50% AMI, exceeding the affordability regulatory requirements. Additionally, the Committee acknowledged the increase of more family friendly 3 BR apartments by 31 units compared to the initial proposal presented in November 2022. There will now be 58 3BR apartments in the development.

**Accessibility.** The Committee found that the Project would meet but not exceed accessibility regulatory requirements. In addition, 100.0% of the units would be adaptable, which meets regulatory requirements. There will be elevators and other accessible features required by law.

The developer is providing 10 accessible units, and initially proposed to allocate the accessible units proportionally among the affordable and market rate units, with 3 accessible affordable units and 7 accessible market rate units. The City's ADA/504 Coordinator recommended that there be 6 affordable and more fully accessible apartments because there are 2 different levels of affordability and 3 different size (BR) apartments, thus different rents. This would ensure that the accessible apartments are equally distributed by price/rent and size/type of apartments. The developer has agreed to this request, provided the allocation is not in conflict with any applicable law or regulation. Six (6) of the accessible units will be affordable units, with one accessible unit at each income level and unit type. Four (4) of the accessible units will be market rate units.

**Visitability.** The Committee found that the Project meets visitability regulatory requirements. All of the units (100.0%) in the Project will have: 1) at least one building entrance at grade, approached by an accessible route; 2) an entrance door and all interior doors on the first floor are at least 34 inches wide, offering 32 inches of clear passage space; and 3) at least one half-bath on the main floor of each unit.

**Housing/Employment/Transportation Proximities.** The Committee found that the Project would meet regulatory requirements for proximity to housing, employment, and public transportation. The Project is located on Route 9 within .5 miles of the commercial corridor beginning at Chestnut Hill Square, making it well sited in relation to commercial services and job accessibility.

The Project is located just under a mile from the Newton Centre and Newton Highland T stations, and approximately .15 miles from the MBTA Route 52 Bus Stop at Parker Street and Boylston Street. It is approximately .5 miles from the Route 60 Bus Stop at 325 Boylston Street.

**Discriminatory Impacts.** The Committee found that the Project would not have a disparate impact on any protected class (i.e., race, national origin, color, religion, sex, disability, familial status, sexual orientation, or gender identity), nor would it perpetuate racially segregated housing patterns. The Project is close to office, retail, and service uses which offer employment opportunities for residents, and public transportation is located near the site. Finally, in order to avoid any disparate impact, the Committee notes that the affirmative marketing plan for rental of the units is intended to support the City's fair housing goals.

Thank you for your consideration. If you have any questions for the Committee, please contact the City's Housing Planner, Malcolm Lucas, who staffs the Committee, by telephone at 617-796-1149, or by email at [mlucas@newtonma.gov](mailto:mlucas@newtonma.gov).

Sincerely,



Esther Schlorholtz, Chair



Donna Rigg, Vice Chair

cc: Stephen J. Buchbinder, Esquire  
Barney Heath, Director of Planning & Development  
Katie Whewell, Chief Planner for Current Planning  
Cat Kemmett, Senior Planner  
Malcolm Lucas, Housing Planner  
Jini Fairley, ADA Coordinator  
Brenda Belsanti, Zoning Board of Appeals Clerk