



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Barney Heath  
Director

---

**MEMORANDUM**

**DATE:** September 19, 2024

**TO:** R. Lisle Baker, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director, Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
Nora Masler, Planning Associate

**RE:** **#317-24 Requesting discussion and possible amendments to Section 5.4.2**  
HER HONOR THE MAYOR requesting a discussion and possible amendments to retaining wall regulations for Multi-Family/Commercial/Industrial/Civic Buildings in Section 5.4.2 of Chapter 30 Zoning.

**MEETING:** September 23, 2024

**CC:** City Council  
Planning Board  
Anthony Ciccariello, Commissioner of Inspectional Services  
Jonathan Yeo, Chief Operating Officer  
Alissa O. Giuliani, City Solicitor

---

**Overview**

In April 2024, the City Council approved a zoning amendment to Sec. 5.4.2. Retaining Walls, that sets a special permit requirement for any retaining wall over four feet in height in all zoning districts and for all building types. Previously, only retaining walls over four feet within the setback required a special permit while retaining walls outside of the setback areas had not required a special permit.

The City Council supported this amendment as an important first step with the understanding that additional measures (i.e. how height is measured) were being considered and have since been approved. The City Council brought forward the retaining wall amendments to address grade and wall issues with a particular focus on single- and two-family development. However, the ordinance presently applies in all zoning districts and to all building types.

Staff recognize that this recently enacted retaining wall requirement is appropriate for regulating the development of single- and two-family buildings but can be counterproductive in multi-family, commercial, and industrial development. Planning staff is seeing beneficial, and unobtrusive, retaining walls within recently completed projects with these building types, see below. These retaining walls are often necessary to access an underground garage, with the portions of retaining walls exceeding four feet typically located outside of the setback and below grade. Working closely with Inspectional Services (ISD) and the Law Department, Planning staff have developed a draft amendment (Attachment A) to the current ordinance in the aforementioned building types for the City Council's consideration.

### **Summary of Draft Amendments**

Again, staff support the recently adopted amendments regulating retaining walls for Single-Family, Detached; Two-Family, Detached; and Single-Family, Attached building types. Given the original docket item, #76-24(2), we believe the intent of the City Council was to specifically strengthen regulations for these development types. The draft recommendations found in Attachment A would:

1. Maintain special permit requirement for all Single-Family, Detached; Two-Family, Detached; and Single-Family, Attached building types.
2. For all other building types, return regulations to previous requirements. That is, all retaining walls over four feet in height within the setbacks require a special permit while retaining walls outside of the setback areas are by-right.

## Project Examples

Below are examples of multi-family/mixed-use projects that now require a special permit where a retaining wall is beneficial, and unobtrusive, and could be allowed by-right.

### *935 Washington Street (corner of Washington and Lowell) – 18 units*



Fully below grade driveway and retaining wall leads to parking beneath the building.

### *429 Cherry Street (West Newton) – 19 units*



Fully below grade driveway and retaining wall leads to parking beneath the building.

*Trio (corner of Washington and Walnut) – Mixed-Use*



Fully below grade driveway and retaining wall leads to parking beneath the building

**Next Steps**

Staff look forward to presenting these draft recommendations to the Zoning and Planning Committee (ZAP) and will request that ZAP

**Attachments**

**Attachment A**      Draft amendments to Sec. 5.4.2. Retaining Walls

## 5.4.2. Retaining Walls

A. **Defined.** A wall or terraced combination of walls, 4 feet in height or greater, to hold a mass of earth material at a higher position. For the purposes of this Sec. 5.4, a berm with a slope of 1:1 or greater is to be considered a retaining wall.

B. Standards:

See also Revised Ordinances Chapter 29, Article VIII, as amended.

1. For Single-Family, Detached, Two-Family, Detached, and Single-Family, Attached building types.

a. The construction of a retaining wall of 4 feet or more in height requires a special permit. When a combination of retaining walls are within 25 feet of each other (measured from front-face of wall to front-face of wall), height is measured from the foot of the lowest wall to the top of the highest wall.

~~b. See also Revised Ordinances Chapter 29, Article VIII, as amended.~~

2. For all other building types.

a. The construction of a retaining wall of 4 feet or more in height within a setback requires a special permit. When a combination of retaining walls within the setback are within 25 feet of each other (measured from front-face of wall to front-face of wall), height is measured from the foot of the lowest wall to the top of the highest wall.

B-C. Special Permit Criteria. In granting a special permit the City Council shall find:

1. That the lot presents challenging topography which limits the use of the property, such that it could not be improved without the implementation of retaining walls;
2. That the requested retaining wall will not adversely impact adjacent property, the neighborhood, or the public; and
3. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

(Ord. No. Z-45, 03/16/09, Ord. No. C-40, 04/16/24, Ord. No. C-42, 04/16/24)

## 9.2.6. Development and Design Standards

### A. Site Design Standards

#### ~~7. Retaining Walls~~

- a. ~~The placement of a retaining wall of four (4) feet or more anywhere on a lot requires a special permit.~~