



CITY OF NEWTON
Planning & Development Board
MEETING MINUTES
Monday, October 21, 2024

Members present:

Kevin McCormick, Chair
Amy Dain, Vice Chair
Lee Breckenridge, Member
Peter Doeringer, Member
Ed Dailey, Member
Greg Bialecki, Member
Barney Heath, *ex officio*

Ruthanne Fuller
Mayor

Staff present:

Shaylyn Davis-Iannaco, Housing Program Manager
Nora Masler, Planning Associate

Barney Heath
Director

Planning & Development

Nora Masler
Planning Associate

1. Planning Board Discussion of Docket Item #45-24 Requesting reevaluation and possible amendments to Inclusionary Zoning Ordinance

Housing Program Manager, Shaylyn Davis-Iannaco presented the key components of Newton's current Inclusionary Zoning Ordinance, ahead of the City's mandatory five-year update of the ordinance which has begun in collaboration with consultants RKG. The presentation attached details the affordable housing provisions required for different types of housing development.

Members

Kevin McCormick, Chair
Amy Dain, Vice-Chair
Lee Breckenridge, Member
Peter Doeringer, Member
Ed Dailey, Member
Greg Bialecki, Member
Barney Heath, *ex officio*

Greg Bialecki, Planning Board Member, clarified the number for the total development cost of the cash payment.

- **A Shaylyn Davis-Iannaco, Housing Program Manager:** The total cost is 650,000 which was calculated in 2022 and is required to be recalculated every three years so it will be recalculated soon.

2. Planning Board Discussion of Docket Item #317-24 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.

Associate Planner, Nora Masler presented the primary components of the proposed amendment to the retaining wall regulation, to allow retaining walls over four feet in the setback for multifamily, commercial and industrial buildings without a special permit requirement. She noted that the regulation change is required by the Executive Office of Livable Communities for Newton's compliance with the MBTA Communities Law.

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Peter Doeringer, Planning Board Member: Stated his opinion that it is reasonable to permit retaining walls to underground parking, noting that this change allows the city to remedy unanticipated problems of the recent change requiring the special permit.

Kevin McCormick, Chair: Stated his opinion that this change is logical.

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 or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

Lee Breckenridge, Planning Board Member: Requested clarification about whether the recent change requiring a special permit for retaining walls is limited to retaining walls inside the setback or whether it included retaining walls outside the setback. Ms. Breckenridge noted that this distinction is important, expressing general concern with allowing retaining walls.

- **A Nora Masler, Associate Planner:** Previously only retaining walls over four feet within the setback required a special permit. The recent change altered this regulation to require a special permit for retaining walls outside the setback.
- **A Barney Heath, ex officio:** Clarified that this change could be considered exclusively for the VCOD, reiterating that the State identified this as a necessary change to allow for by-right construction in VCOD. Director Heath also noted that Ms. Breckenridge's points are appreciated, particularly with regard to design considerations.

Peter Doeringer, Planning Board Member: Stated his appreciation for Ms. Breckenridge's comment, asking if there might be a way to require specific angling, or setbacks for retaining walls above four feet to avoid the canyon effect. Mr. Doeringer noted that the retaining wall behind MIDA, shown in the meetings materials, is fairly innocuous.

Lee Breckenridge, Planning Board Member: Noted that the examples shown in the meeting materials are acceptable from a pedestrian perspective, however, they do not express the potential issues.

Peter Doeringer, Planning Board Member: Requested examples of unintended consequences for the next meeting.

Lee Breckenridge, Planning Board Member: Requested the current retaining wall ordinance language. Ms. Breckenridge also raised the clean-up item of the definition of structure which states retaining walls over four feet, while the retaining wall section notes four feet or higher.

3. Planning Board Discussion of Docket Item #311-24 Requesting discussion and possible amendments to dormer regulations in Chapter 30 Zoning.

Associate Planner, Nora Masler presented the primary components of the proposed amendment to the Dormer regulation, highlighting the misalignment between the interpretation of the ordinance language and the intent which leads the ordinance to disincentive architectural articulation such as bay windows.

Peter Doeringer, Planning Board Member: Asked if the interpretation that this change is looking to solve arose from zoning or ISD.

- **A Nora Masler, Associate Planner:** Clarified that the issue this change is looking to resolve is based on ISD's interpretation of the zoning ordinance language.

Ed Dailey, Planning Board Member: Asked if the Planning Department has considered impact of this change on "Monster Houses" with steeply sloping unoccupied upper floors that create the image of volume.

- **A Nora Masler, Associate Planner:** The guardrail for this issue would be the definition of a half story.

4. Planning Board Discussion of Docket Item #85-24 Request for discussion and possible amendments to enhance the preservation of existing homes.

Associate Planner, Nora Masler presented the analysis of city-wide teardowns, city financing, and project scale decision making around financing conducted by the Planning Department and their consultants.

Greg Bialecki, Planning Board Member: Asked about the connection between city finances and the analysis of teardowns and demolitions, as well the extent which new residential construction in Newton involves teardowns.

- **A Nora Masler, Associate Planner:** The department was looking to get a holistic understanding of all aspects of residential development, including aesthetics, project level costs, and benefits of new development for city finances. In response to Mr. Bialecki's questions regarding how much new development occurs as redevelopment of existing homes, vs. development on vacant lots, Ms. Masler stated that she will further research this, using the Pattern Book, but anecdotal evidence points to Newton being largely built out, though some building permit and new development revenue is being generated through renovation rather than redevelopment.

Peter Doeringer, Planning Board Member: Commented that the difference in assessed value between the torn down home and the newly constructed home, would give a sense of the amount of revenue gain to the city, and therefore the extent to which the city benefits from these teardowns. Mr. Doeringer also discussed the analysis conducted by Landwise, noting that the housing price data shown does not account for inflation, which would bring down the increase in value. Mr. Doeringer also asked if smaller builders were consulted in Landwise's interviews given that the proformas of smaller companies may look different from larger companies. Last he noted that Landwise accounted for borrowing costs as a significant expenditure at 8-12%, while his investigation showed that this money could be borrowed at closer to 6%. Ultimately, Mr. Doeringer remarked that this analysis could be expanded on to provide a better sense of changes in inflation adjusted terms.

- **A Nora Masler, Associate Planner:** Landwise interviewed four of Newton's most prolific residential builders, at least one of which is a small firm with only two individuals on staff.

Barney Heath, ex officio: Noted that the data gathering, and analysis phase of this project is concluding, with the next phase being an exploration of the potential alternatives for consideration with respect to zoning.

Ed Dailey, Planning Board Member: Expressed his hope that the analysis of teardowns includes exploring whether this is an ongoing issue or if it could be a phase that will pass as the market cools. Mr. Dailey also expressed hope that the driver of this project is not the aesthetics of larger homes, and that there is a deeper understanding of the purpose of this zoning focus.

- **Barney Heath, ex officio:** Noted that one other piece of this project is gaining a better understanding of how Newton's residential redevelopment fits in context of other similar surrounding communities.

5. Planning Board Discussion of MBTA Communities Law Executive Office of Livable Communities Letter of determination of conditional compliance.

Barney Heath, ex officio: Informed the Planning and Development Board that the letter from the Executive Office of Livable Communities (EOHLC) notified the Planning Department of Newton's designation as conditionally compliant. Director Heath remarked on the positive relationship and frequent communication between the EOHLC and the Newton Planning and Development Department. To become compliant the EOHLC would like to see Newton carry forward the proposed change of removing a special permit for retaining walls over four feet in the setback, as well as a language change making the allowance of existing non-conforming buildings to opt into the Village Centre Overlay District more explicit. Director Heath also noted the chart provided by EOHLC showing their analysis of the VCOD unit capacity. Newton's requirement was 1,330 units, the package submitted by the city was 8,532 and the EOHLC's determination of unit capacity was 1,399 units, which is below the package submitted by the city given some units were discounted based on the nuances of the ordinance. Ultimately, the City's submission is above the requirement and the EOHLC is looking for the two aforementioned language changes.

Ed Dailey, Planning Board Member: Expressed his opinion that as little be change in the VCOD zoning as possible should occur, particularly regarding unit capacity, given the controversy that surrounded adopting the zoning.

Amy Dain, Vice-Chair: Asked if there were any projects utilizing the VCOD zoning.

- **A Barney Heath, ex officio:** An update on VCOD projects is a docket item to be discussed at a future ZAP meeting. Anecdotaly a few projects have opted in with a few units in the MRT. There is a project occurring in Newton Centre on Chase St. where a 10,000 SF lot is being divided into two lots and four units is proposed for each, although a building permit has not yet been received. There is also a project being proposed in Newtonville at the site of the Swedenborgian church which has been before the Historical commission. This project also intends to divide the lot and construct new units behind the church. There are also a few commercial projects opting for additional seats.

Kevin McCormick, Chair: asked if the project in Newtonville at the Swedenborgian Church has made it through the historical review process.

- **A Barney Heath, ex officio:** Three meetings have occurred, and they appear close to being comfortable with the proposal for the church building. They will also be involved in the new construction in the rear of the church.

Lee Breckenridge, Planning Board Member: Reminded the Board of their previous support for maintaining the structure in the back of the church as asked Barney if the preservation of that structure is no longer occurring.

- **A Barney Heath, ex officio:** In the opinion of the Newton Historic Commission that building was deemed less historically significant.

Amy Dain, Vice-Chair: Asked if there is a minimum lot size in that district.

- **A Nora Masler, Associate Planner:** There is no lot size minimum but there is a minimum frontage and a building footprint maximum.

Peter Doeringer, Planning Board Member: Asked if there is a significant group of available non-profit developers working in Newton, noting the substantially different subsidies required for non-profit vs. for-profit developers.

- **A Barney Heath, ex officio:** There are a number of non-profit developers working in Newton, particularly in the elderly housing arena, such as 2Life Communities. The Armory project is with Metro West. There is also the Housing Authority which worked on Haywood House. We aim to do everything we can to encourage non-profit housing development, including working closely with the Newton Affordable Housing Trust to encourage non-profits to come forward with affordable housing opportunities. There is also language in the Inclusionary Zoning Ordinance which exempts certain types of projects that are non-profit related.

Kevin McCormick, Chair: Some non-profit organizations find Newton difficult to work in because of the long permitting process, given they can not afford the carrying costs in the same way a for-profit developer can.

A Barney Heath, ex officio: Very often non-profit organization pursue comprehensive permits with the Zoning Board which operates outside of the Inclusionary Zoning Ordinance.

Lee Breckenridge, Planning Board Member: Clarified that the State's comments require the proposed change to retaining walls in the VCOD, however, the Planning Department's proposal exceeds this by altering the language for any structure that is not single or two family. Ms. Breckenridge requests that this change be limited to the VCOD, and not expanded elsewhere, because in three families, or multifamily settings, the four-foot limitation is a positive change to prevent chopping up landscapes and enhance street scape. Ms. Breckenridge also noted the building code's limits on the height of retaining walls for structural and drainage reasons, requesting that the

writers of the ordinance language change keep in mind the structural concerns around limiting the height of retaining walls.

6. Meeting Minutes

Ed Dailey, Planning Board Member, moved to approve the minutes of the 09/10/24 meeting. They were approved by a vote at 8:26 PM of 5-0-2 with Greg Bialecki, Member and Barney Heath, ex officio abstaining.

7. Staff Updates

A Barney Heath, ex officio: Zack LeMel, the Chief of Long Range Planning is on family leave.

8. Upcoming Meetings

- Monday, November 4th, 2024 - Regular Monthly Meeting

9. Adjournment

Upon a motion by **Peter Doeringer, Planning Board Member**, at 8:30 PM the meeting was adjourned with a vote of 7-0.

KEY PROVISIONS OF NEWTON'S INCLUSIONARY ZONING ORDINANCE

For Planning & Development Board: 10/21/2024

PURPOSE

- Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels in the City;
- Provide for a full range of housing choices throughout the City for households of all incomes, ages, and sizes;
- Increase the production of affordable housing units to meet existing and anticipated housing needs within the City; and
- Work to overcome economic segregation regionally as well as within Newton, allowing the City to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.

RENTAL UNIT REQUIREMENTS

TIER LEVEL	7-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1* (50-80% AMI)	15%	15%	15%
Tier 2 (110% AMI)	0%	2.5%	5%
Total	15%	17.5%	20%

**Tier 1 inclusionary units must average out to 65% AMI.*

EX: 4 IZ units are required, 2 are restricted at 50% AMI, 2 are restricted at 80% AMI.

OWNERSHIP UNIT REQUIREMENTS

TIER LEVEL	7-16 UNITS	17-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1 (80% AMI)	15%	10%	10%	10%
Tier 2 (110% AMI)	0%	5%	7.5%	10%
Total	15%	15%	17.5%	20%

MAXIMUM MONTHLY HOUSING COSTS, SALES PRICES, AND RENTS

- Rental: Monthly housing costs, inclusive of rent, utility costs for heat, water, hot water, and electricity, 1 parking space, and including access to all amenities that are offered to tenants in the building, must not exceed 30% of the applicable household income limit for the Inclusionary Unit.
- Homeownership: Inclusionary units for sale are to be priced to be affordable to a household having a gross annual income 10 percentage points lower than the household income limit for the IZ unit. The monthly housing costs, inclusive of mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, hazard insurance, and 1 parking space, must not exceed 30% of the applicable household income limit for the Inclusionary Unit.
 - Down payment must be 3% of purchase price
 - Mortgage loan must be a 30-year fully amortizing mortgage for not more than 97% of the purchase price with a fixed interest rate that is not more than 2% points above the current MassHousing interest rate
 - Buyers will be eligible so long as their total housing costs, including the services above, do not exceed 38% of their income.

CASH PAYMENT OPTION

- An applicant may choose to forgo the requirements of the IZ ordinance if:
 - Project includes 7-9 units
 - By Special Permit of the City Council where the Council makes specific findings that there will be an unusual net benefit to achieving the City's housing objectives as a result of allowing a cash payment rather than requiring the development of the IZ unit(s)
 - For projects where the IZ requirement results in a fraction of a unit less than 0.5, the applicant may contribute a fraction cash payment to the City.
- Cash payment is based on the Total Development Costs (TDC), calculated *at least* once every three years by the Newton Housing Partnership
- Cash payment is split 50/50 between the Newton Affordable Housing Trust and the Newton Housing Authority.

DESIGN AND CONSTRUCTION

- Inclusionary units, and their parking spaces, must be proportionally distributed throughout the project
- The bedroom mix of the IZ units must be equal to the bedroom mix of the market-rate units
- IZ units must meet the following sizes:
 - Comparable in size to the market rate units
 - Whichever is greater: minimum square footage, as required by EOHLC's most current comprehensive permit guidelines **OR** have an average square footage of not less than 80% of the average square footage of that of the market rate units.

DESIGN AND CONSTRUCTION (CONT.)

- Total square footage of the IZ units must not be less than 10% of the sum of the total square footage of all market-rate and IZ units
- Exteriors of IZ units must be indistinguishable
- Materials used and the quality of construction must be equal to that of the market rate units
- IZ units must have equivalent accessibility
- IZ units must have equal access to all amenities