



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, May 23, 2016**

Present: Councilors Hess-Mahan (Chair), Danberg (Vice Chair), Albright, Baker, Sangiolo, Yates, Leary and Kalis

Planning & Development Board Present: Peter Doeringer and Megan Risen

City Staff: James Freas (Acting Director, Planning Dept.), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), Michael Gleba (Senior Planner), Karyn Dean (Committee Clerk)

**#181-16 Mayor's appointment of Barney Heath and Director of Planning & Development**  
HIS HONOR THE MAYOR, pursuant to section 3-3 of the City Charter, appointing BARNEY HEATH as DIRECTOR OF THE PLANNING AND DEVELOPMENT DEPARTMENT effective June 7, 2016 [05/09/16 @ 4:31 PM]

**Action: Approved 6-0 (Councilors Leary and Kalis not voting)**

**Note:** The Committee members were provided with Mr. Heath's resume and they also had the opportunity to meet with him at the last Zoning & Planning Committee meeting. He joined the Committee and explained he has been in the planning field for 30 years, starting at the Boston Redevelopment Agency, then went to Weymouth as the Community Development Planner. He has spent the past 21 years in the City of Pawtucket, Rhode Island and was most recently the Director of Planning & Zoning there. Mr. Heath expressed his pleasure at joining the City of Newton and was looking forward to the work ahead.

A Committee member noted that Mr. Heath staffed the Riverfront Commission in Pawtucket and asked how that Commission worked. Mr. Heath explained that it was similar to a Planning Commission of the Riverfront and conducted site plan review and development plan review for parcels in the riverfront zone. There is no Conservation Commission in Pawtucket because it is a very urban community. Pawtucket is also proudly part of the Blackstone Heritage Corridor and is the jewel of that crown as it has an historic mill.

It was also noted that Mr. Heath spearheaded a 10-year Comprehensive Plan. He explained that it is a state mandate to update the Comprehensive plan every 10 years in Rhode Island.

Massachusetts is different so he will have to understand better what is required here. He thinks it's always a healthy idea for a community to look at its comprehensive plan to be sure it is still valid and relevant.

A Committee member asked Mr. Heath to discuss some past projects. He said he worked with a utility company that owned 15 acres of riverfront land which was severely contaminated and was getting nowhere in its efforts to remediate the site. It was walled off from the neighborhood and the neighborhood was extremely upset with the utility company. The City worked with the utility on a master plan for over 12 months which brought the neighbors and representatives from the utility and the City together to get some consensus on what the land could be used for after remediation. The master plan was finished and much of the adversity was mitigated through the process. The plan is a 5-10 year plan which is not unusual and it is headed in the right direction. He very much enjoyed bringing people together and working through the process to a good solution.

He also worked on building a Community Center in one of the neighborhoods that really needed a place for various groups to come together. In another neighborhood which was plagued with crime and prostitution, a number of programs were instituted. They brought in an affordable housing group to rehabilitate some homes there with a strong emphasis on homeownership and that changed the dynamic of the neighborhood and helped turn it around.

A Councilor noted that Mr. Heath had experience working with re-development of blighted areas and Newton does not really have that problem. There is a need, however, for affordable housing and multi-family housing and it was wondered how he feels about the housing strategy and how to tackle those issues. Mr. Heath responded that this is a complex problem which will require consensus building. In Pawtucket, they were trying to encourage market rate housing in the downtown, which is the other side of the same coin, but a similar issue.

It was asked if Mr. Heath could consider the end user when thinking about compiling and providing information to the public through the website and other sources. It is difficult right now finding information and navigating the website. Better communication and transparency with the public is needed.

The Committee welcomed Mr. Heath and thanked him for his time. They were impressed with his background and with his openness to learning as much as possible about the City to help it move forward in a positive way.

Councilor Yates moved approval and the Committee voted in favor, unanimously.

**#103-16**      **Petition to rezone lots on Glen Avenue from MR1 to SR2**  
COUNCILORS DANBERG, BLAZAR, SCHWARTZ , SANGIOLO AND YATES petitioning to rezone land known as Section 61, Block 39, Lots 01, 02, 03 and 04 located at 41, 45, 47 and 51 Glen Avenue from MULTI RESIDENCE 1 to SINGLE RESIDENCE 2 [03/17/16 @ 1:50 PM]

**Action:**      **Withdrawal without Prejudice Approved 8-0**

**Note:** Vice Chair, Councilor Danberg opened the public hearing on this item and invited public comment.

Public Comment

*Simon French, 47 Glen Avenue* noted that he was the person who initiated this petition. He explained that he felt it was not desirable to put in a big multi-family house next to his property; however, it has become clear that not all the neighbors in the area are in support of this petition. He, therefore, asked that this petition be withdrawn without prejudice.

He also said he has been heavily involved in the neighborhood for a long time and he has concerns that behind them a lot was developed and it looks like a huge apartment complex now and it's ugly. His concern has been that something like that might be built next to him. He has been going to the Zoning & Planning meetings hoping that some protections might be put in place against builders who come into neighborhoods like his, build to make a profit and destroy neighborhoods and then leave. Then there are developers who come into neighborhoods and sue people to get their own way and bully people and that is despicable. He asked anyone to come out and look at the property being developed and anyone would say it is inappropriate.

*Laurance Lee*, attorney representing the owner of 45 Glen Avenue, ECW Realty LLC, stated that his client is one of the property owners in this proposed petition and he is happy to hear that the petition is being withdrawn. He submitted a letter to the City Council which they received well in advance of the meeting. He stated in this letter that this would be illegal reverse spot zoning of his client's property. There is no planning mechanism behind this re-zoning and the Planning Department memo supports that position. He also spoke to Assistant City Solicitor, Marie Lawlor, and she agreed with his position that this petition constitutes illegal reverse spot zoning. His client was very upset because there are four houses subject to this petition. He strongly believes his public representatives should have contacted him seeing there are so few properties involved but that never happened. He felt the process was a discriminative way of representation. There is ongoing litigation with Mr. French and this private matter has been brought to a public forum, which never should have happened. His letter had more details, but this is a general summary.

*Edward Schiffman, 130 Beethoven Ave* said he also owns property at 1058 Beacon Street. He felt the person who wants to build the multi-family house is being singled out and it is discriminatory. He fears the people who are running land use in the City. This property owner has every right to develop his property and trying to rezone his property so that he can't do that is not right. In the past, there was an attempt by a Councilor to landmark his property without his knowledge or notification. He felt this process was taking place behind people's backs and no one was notified or has a voice. He wants to do the right thing as a resident and a developer. The city needs affordable and senior housing and he feels many Councilors are trying to cause problems. It is costly to the taxpayers and a waste of time. There is a housing crisis and he feels many of the Councilors are against all development.

*Scott Lewis, West Roxbury*, said he was hired by the developer to do the architectural plans for the two-family on the lot in question. This was not a special permit process and was from beginning to end a building permit approval as of right project. This is within the zoning rules which have existed on that property for many years. He agrees that a developer who is doing something that

would require a special permit should be in communication with the neighbors as a special permit implies something which is outside of what one might expect. This is a two unit house, by right, and completely within the zoning code. Neighborhood communication seems an excessive step.

*Hanwen Wu, 51 Glen Avenue*, said he and his wife just started living there a year ago and they know they have a plan to accommodate for their retired parents in the future. They would be losing their opportunity to build on their property and their options would be limited if the zoning were changed. They would be losing money they have already put into this investment to look for other property that could accommodate their parents. He thinks the whole conversation is on the builder but he is a homeowner that is being affected and there are no obvious benefits for him. He is not interested in awarding builders and his rights should be considered.

*Mrs. Wu, 51 Glen Avenue* said she got more information about this from Simon French. She wanted to say she did not receive any notice in the mail and just learned about it a week ago and randomly found out about it. She then sent a letter to the City Clerk asking about the mailing and then was informed the notices went out on May 5<sup>th</sup>. The lack of communication was worrying she would've hoped someone would have asked for her opinion.

*Linda Brennan, 28 Orchard Ave.* said she sells real estate. People desperately need housing in this City and a limiting multi-residence housing eliminates an entire population. There are blue collar workers in the City who own these types of properties and owning single or two-family house could be a difference of \$100K. If something is zoned multi-family it should be left that way. All she hears about is how can the city hurt developers and keep development out. It's time for everyone to come together. This man is trying to buy a property that is multi-family zoned and now it's trying to be changed and this undermines people. Developers do make a profit but so do lawyers and doctors and other professions. She thinks the meetings are clandestine and people who own multi-family homes in the City would be appalled. This should be advertised in the Boston Globe and the Tab. She also felt that all owners of multi-residence properties should have received a written notice of this meeting.

*Sean Leary, 24 Floral Street* said he has grown up in Newton and has been a real estate developer here and has seen many changes take place that a knee jerk reactions and they never work. He thinks the Council should send out an email because everyone is so busy and he doesn't have time to read the Tab or check his emails. He would like to get an email for any zoning changes. The Chair explained that there is a Newsletter that anyone can subscribe to located on the City's website. They will then automatically receive emails each week of any items coming up in the week ahead and links to find more information. The Planning Department is also working on a new webpage to make finding information more intuitive. The City does not have everyone's email address so if anyone is interested they must take the first step and provide their contact information.

Mr. Leary went on to say that he purchased a property in Newton about 13 years ago and Aldermen Yates and Samuelson took it upon themselves to try and change the zoning of that

property from multi-family to single and it held him up for 6 months. Then Aldermen Samuelson, who was a realtor, called him 3 years later to tell him of a single family house that was on sale across the street from him that he could tear down and put up a multi-family. He found that ironic.

Julia Malakie, Murray Road said she found it ironic that builders were saying they don't have time to read the Tab, because that's the way a lot of people feel when they are regularly blindsided by development. On Murray Road her neighborhood was rezoned in 1999 from MR1 to SR3 and it worked great for her neighborhood. That neighborhood was worried about the same thing this petitioner is worrying about and it's happening all over the City. She just met a new neighbor who bought a \$700K house and that wouldn't happen if single-families keep getting replaced with multi-families that sell for well over \$1M.

#### Committee Comments and Questions

Councilor Danberg asked the Committee Clerk to explain how this meeting was advertised. Ms. Dean announced that the Public Hearing notice for this meeting was published in the Boston Globe on May 9<sup>th</sup> and May 16<sup>th</sup> and in the Newton Tab on May 18<sup>th</sup>. It was also posted on both the first and second floor posting Boards at City Hall and in numerous calendars on the City of Newton website, as well as on the Zoning & Planning Committee webpage of the City's website. Notifications were mailed on May 6<sup>th</sup> to all abutters within 300 feet of the properties in question. These notifications are all required by MGL Chapter 40A. Councilor Hess-Mahan noted that he had heard several complaints from people within the 300 feet area who said they did not receive a notice. He regrets if anyone did not receive it but notifications were mailed from City Hall. The envelope has a blue stripe which says Legal Notice on it.

Councilor Sangiolo explained that this issue was brought to her attention in 2013 when the Ward 6 Aldermen were looking to rezone a certain section of Newton Centre. She didn't want to suggest that this was necessarily targeted for any potential development or whatever the law suit states, because she has emails from 2013 that suggest that the petitioner wanted to be included in that 2013 rezoning and she wanted to make that clear.

Mr. Lee explained that he was involved in that rezoning in 2013 and it was a completely different situation than this. This is very surgical, targeting spot zone change.

Councilor Baker said, in response to Mr. Lee's comments, that it would be unfair to characterize the opinion from the Law Department in any particular way, instead the Law Department should be heard from directly. The rear lot subdivisions issue has been dealt with quite a bit over time and a wholesale amendment to the ordinance was made to try to limit them. Some single family properties have been rezoned to single family use in some areas as there has been a pattern of trying to make the underlying zoning consistent with the existing use. There are circumstances in the past that don't mean this petition would be inappropriate.

Marie Lawlor, Assistant City Solicitor, explained that in a situation like this where there is no planning rationale that would support it or no public good that would come of it and where this is really a

private matter, a rezoning would not withstand a challenge on reverse spot zoning. Councilor Baker said he was troubled by the Law Department's opinion.

Councilor Albright explained that she has seen the situation in the neighborhood and understands the difficulty for the petitioner. She hopes the parties can work something out to help solve the problems there and is mutually beneficial. Perhaps this isn't the right solution but hopefully something will happen to make this better.

Councilor Hess-Mahan noted that he met with Mr. French and his wife and viewed the property. He understands the issues and agrees with Councilor Albright, but there may have been some problems with the process. He encouraged anyone who might docket an item to speak and consult with the Law and Planning Departments before coming forward with a rezoning petition. There have been several petitions come in from residents and in the future, it would make sense to have them reviewed to be sure they are valid petitions.

Councilor Yates said he has not heard of reverse spot zoning or that a planning rationale was expected or what they might be.

Councilor Danberg felt that neighborhoods and developers need to communicate with each other in order to avoid these types of conflicts. In this instance, the developer could have helped the situation by reaching out to the neighbors. The City Council is happy to facilitate meetings between neighbors and developers. Fear is created when neighbors don't know what is going to happen.

Mr. Lee noted that because there is an ongoing lawsuit about this issue, there has been communication between all sides. Through his discussions with certain city officials, he has found out that some of the information during the mediation may have been disclosed which shouldn't have. That's yet another reason why this petition is not necessary and is not proper. There is an active civil action underway and those issues such as access and size of the home have been brought up as concerns and are part of the conversations. To find out the opposing party then involved public officials, is bothersome and is a waste of time. Other neighbors communicated that they were not aware of this petition.

#### Planning & Development Board

The Planning & Development Board was unable to open their public meeting as they did not have a quorum present.

Councilor Danberg closed the Public Hearing for the Zoning & Planning Committee.

Councilor Hess-Mahan moved to approve the request to withdraw without prejudice and the Committee voted in favor.

**#278-14(2) Zoning amendment to clarify definition of two-family detached dwelling**  
COUNCILOR HESS-MAHAN requesting an amendment to clarify the intent of **Chapter 30 Section 1.5.1.B** definition of Two-Family Detached Dwelling.  
[03/31/16 @ 11:00 AM]  
**Action: Public Hearing Continued; Held 8-0**

**Note:** Vice Chair, Councilor Danberg opened the public hearing. Mr. Freas addressed the Committee. The proposed item adds an additional word to the definition of two-family detached dwelling and also adds illustrations. The additional word would clarify that where two units are placed side-by-side and share a wall, the wall should extend the entire *maximum* height of one or both of the units. See attached.

The word maximum is added because there were some projects that came into Inspectional Services that were interpreted as meeting the definition that was approved in November, 2015, but in fact did not meet the intent. This amendment is meant to clarify the intent that the two units meet at the highest point of connection, and not by garages, for example. Councilor Hess-Mahan explained that the new definition in November intended to define a two-family as a traditional two-family that is either divided vertically or horizontally. One of the points of this was to avoid the “linguine” house.

#### Public Comment

*Mark Sangiolo, West Harwich* said he is an architect and noted that not every project is that straightforward. With a hip roof, how much of the horizontal dimension has to be attached. Can he attach something just connected by 6 feet and go the whole height? It still ambiguous and he had to re-design a project already and this may cause his to re-design it again. Mr. Freas asked if he was looking to attach two units together by 6 feet of shared wall. Mr. Sangiolo said he could go 6 feet in a horizontal direction and that would suffice? He felt this is tying architects’ hands because it may cause them to design something that is bigger in order to satisfy this. Sometimes it is better to break the mass between two buildings so the connection is more delicate. Mr. Freas said that scenario he is describing is something the Council is attempting to move away from. Mr. Sangiolo asked if it was alright to attach something by two feet as long as he goes the full height. Mr. Freas said the illustrations are not binding, but the text is.

Mr. Sangiolo asked if the definition could be amended by adding “**AND**/or is divided horizontally”. Sometimes, especially when working with an existing building, he might try to gain some space over another unit and has no bearing on the outside look. He would like to see the Historical Commission having more power and leeway.

*Laurance Lee* noted that the Historical Commission has a tug and pull with zoning. On Mr. Sangiolo’s project, he was trying to work with Historical Commission to save much of the design and historic nature of this carriage house, however, it did not comply with the zoning regulations. Historic liked the design very much, but they could not build it. The carriage house had to be

relocated on site and the attachment was a single story, so two buildings were shared by a lower building but did not meet the code. It looked great though and the result was not as attractive, but it was still a nice project.

*Mike Vahey, 33 Stanley Road* said he owns rental properties and does some development in Newton as well. He felt his tax dollars should be going towards the public good and for safety reasons. He feels the Committee is determining aesthetics and someone on the block didn't like how a house looked so they're changing the zoning code to fix it. Dimensional standards are set and now they are setting aesthetics and has nothing to do with safety. In the 1800s all houses had wraparound porches so should all houses now have those? Traditional houses built a 100 years ago were built for a different demographic and a different time. There were no garages and very few cars and saying homes have to be built that way still should not be their purview. He didn't understand. If all other dimensional requirements are met, he didn't feel the layout should be something that is dictated. Every house will end up looking the same and this is overreach.

*Ronald Mauri, 35 Bradford Road* said he what builders are missing is that what they are building affects people and aesthetics do matter. People buy a house and pick out a neighborhood and think they know what they're getting into and then someone comes along and builds something very different and very big. This is a lot of people who care and are affected by one person building something. It is important to listen to what the community wants. Zoning protects a whole neighborhood and how much Newton changes matters to people who buy houses and live here.

*Wade Schiffman, 130 Beethoven Ave* said most builders and developers live here and care about the City. He thinks the Council is making decisions without a lot of input from those builders. The reason more houses being built with hip and flat rooms is because of the changes to FAR and result in bigger footprints. The builders are being taxed. He also sells and develops real estate in Newton and there are only a couple of people who don't like how certain things look and there is an appetite for what is being built. They are being put through the wringer.

*Sean Leary, 24 Floral Street*, felt the illustration showed a very large lot and he wondered if the rule was eliminating putting the garage within the body of the house. Not a snout house, but incorporating into the structure. Mr. Freas said that was not being eliminated.

*Philip Herr, 20 Marlboro Street*, said the house that has been most recently built in Newton Corner that most pleases him is a two-family structure which has two units adjoined by two garages which this definition is meaning to prevent. This is a great site for a lot of other reasons. The City is about to make a huge investment of funds and energy on form-based zoning and this is an example of that. Why shouldn't this wait and become part of that process instead of singling it out now.

#### Committee Comments/Questions

A Councilor was concerned that Inspectional Services misinterpreted the current definition because Commissioner Lojek had been involved in the discussions and was in agreement on the definition. A number of developers came in and ISD allowed a different interpretation. Mr. Freas said he has



shared this amended definition with the Commissioner and he agreed this was very clear. The Commissioner did not allow the building permits, instead a building inspector, who is now working in a different municipality, approved them. That inspector thought it was the entire height of the adjoining section and approved the plan of two houses connected by two garages with some living space over them. It was designed to come in under the FAR and if it had been designed as this definition intended, it would have been a smaller building.

It was pointed out that what is still allowed by special permit is an attached dwelling which is defined as not a two-family. This would allow a lot of variations on the traditional attached dwellings, but in terms of a two-family, this definition is trying to keep those buildings more traditional. They do not want to see two houses attached by garages and called a two-family.

Councilor Hess-Mahan said he is very much supportive of multi-family housing in the City. He is not trying to discourage multi-family housing. The point here is massing and other issues and FAR is not an effective tool for how to build a building. The issue is that time and time again projects have involved a very deliberate attempt on multi-family lots to build two houses strung together by garages. That is not a two-family house. It is more massive and presents a blank wall to a lot of the abutters and is not pleasant, but more importantly, it is within the Council's purview to look at density, the streetscape and how a building might fit into the context of the existing neighborhood. Zoning Reform is starting very soon and it will be context and form-based zoning. This will look at the built environment and look at what they would like to see and that will be expressed in a Pattern Book. He said he understands today's needs may differ from the past and there is always the option of a special permit to build other types of multi-residence buildings. This is about light, air and massing and neighbors do not want to have buildings looming over them. This is not about whether something is "ugly" or not. It is about finding the proper form for what is a two-family house. People found ways to get around the "common wall connector" and "common roof connector" clauses and that is why this definition was amended in November.

He also was fine with adding "and" to the definition as suggested by Mr. Sangiolo so as to allow for a Philadelphia-style two-family. The Committee was also in agreement.

Councilor Sangiolo agreed that there should be some more cooperation with the Historical Commission. There have been examples of buildings that have ended up not looking the way they would like buildings to look. Also, zoning reform and form based zoning is coming but it is going to take a while to get that completed. In the meantime, they are just clarifying the definition they agreed to last term.

#### Planning & Development Board

The Planning & Development Board was unable to open their public meeting as they did not have a quorum present. They will work on scheduling a public hearing at the earliest possible time.

Councilor Danberg continued the public hearing. Councilor Hess-Mahan moved hold and the Committee voted unanimously in favor.

**#222-13(2) Zoning amendment to regulate front-facing garages in residential zones**  
THE ZONING AND PLANNING COMMITTEE proposing to amend **Chapter 30**, City of Newton Zoning Ordinances, to regulate the dimensions and setbacks of front facing garages in residential zoning districts. [08/03/15 @ 10:15 AM]

**Action: Held 8-0**

**Note:** Councilor Hess-Mahan reminded the Committee that a public hearing had previously been held on this item by both the Zoning & Planning Committee and the Planning & Development Board. This grew out of both zoning reform phase one topics and the discussion around two-families as well as a number of items which dealt with the “snout house”.

James Freas addressed the Committee and presented a PowerPoint which is attached. He noted that the comments received at the public hearing were largely favorable to this amendment and some comments were made regarding providing further restrictions on width and deeper setbacks for garages. The Planning Board recommended reducing the width allowed of garage wall facing the street to 45% from 50%. Mr. Freas and Rachel Blatt, the Urban Designer, studied that and the 5% decrease was fairly insignificant in terms of perception so felt that 40% would be better. The overall point is that the garage should be subservient to the house and 40% better accomplishes that goal. They would still maintain the minimum width of 12 feet.

What has been added is an exemption which proposes an administrative review process in circumstances of irregular lot shape or topography, etc. It was also suggested at the public hearing that architectural standards be introduced and a simple architectural standard was added and included as part of the review for exemption. There would also be a notice process for neighboring properties on the same street.

Mr. Freas said he thought about adding language in Section D that would say something similar to “where the dwelling is more than 30 feet from the street an exemption to this rule may be granted...” under the same exemption standards. That 30 feet requirement is up for consideration and could be changed to a different measurement. He still has that under consideration. A garage would then present forward when the dwelling is set so far back. The issue that is being addressed is the connection between the home and the public realm and all the benefits of that. Where houses are well set back, the connection is already diminished and therefore allowing the garage to present a bit more forward would not be unbeneficial.

#### Committee Comments/Questions

Councilor Sangiolo said she understood the exemption process but wondered if the review should also go to the Urban Design Commission and be the body which grants the exemptions. She also wondered if this might take away the disincentive to setting garages back if exemptions were a possibility. She would like the new language further vetted. Mr. Freas reminded the Committee that the UDC is not a permitting body and is advisory only.

Councilor Baker said that he wants to think about exemptions being granted administratively. This is not something that has been done in this way before. It is setting a policy precedent that he is not eager to undertake until he understands it more. Irregular lot shape and other issues could be committed to the ZBA for a variance. He wondered what kinds of standards are going to guide the judgement to granting waivers.

Councilor Yates said the ZBA has different grounds on what they grant and it would overburden them.

Councilor Hess-Mahan felt the exemptions were very different than a variance, which requires a hardship. The intent here is to get at the narrow lot where the garage is squeezed onto the front and the house behind. Even if there is a garage proud of the building, a house that is setback further is creating some open space in the front and that is consistent with what they are trying to achieve. The 30 feet setback measure seems reasonable but it could be looked at. The UDC also suggested at a later date to add more dimensions to this and perhaps allow a larger percentage of garage the further it is setback from the house. For a corner lot only one of the street has to meet the standards and that is not an exemption, it is by right.

Commenters at the public hearing also asked about requirements to painting the garage and trim. Mr. Freas said they have built that into the design features section of the ordinance by saying it needed to be kept consistent with the remainder of the house. He didn't want to go as far as saying the trim had to be a certain color but this can be looked at as part of the review.

The docket item asked for regulation of front-facing garages but this ordinance seems to cover all garages.

As far as a people door is concerned, it would be considered part of the width if it's within the garage wall.

It was asked what the process would be after the neighbors be noticed of someone applying for an exemption. Mr. Freas said he at least wanted the neighbors to know what was happening. Councilor Baker said there should then be some opportunity for those neighbors to respond in some way. This should probably be looked at again to determine what sort of response process there would be. He also wondered if all or some of the provisions could be exempted and that language is unclear. Some people could start the exemption route from the beginning on all elements. Mr. Freas said he carved out those things not otherwise covered by a special permit. This looks at setback and width issues and those are not governed by special permits for garages. There should be some determination of a threshold that makes seeking an exemption legitimate. Marie Lawlor said the procedure for noticing abutters relative to accessory apartments but might something to look at for some guidance.

The Planning Department will take these comments under consideration and return to the June 13<sup>th</sup> meeting with a new draft ordinance.

Councilor Sangiolo moved hold and the Committee voted in favor, unanimously.

**#170-15 Discussion of HUD settlement relative to creating 9-12 affordable units**

ALD. HESS-MAHAN, JOHNSON, CROSSLEY AND ALBRIGHT requesting a discussion relative to the HUD Settlement with Supporters of Engine 6, the Fair Housing Center of Greater Boston and the Disability Law Center in conjunction with the Law and Planning Departments, to explain the settlement and possible implications for the Zoning Board of Appeals and the Board of Aldermen in terms of the City's obligation to identify sites and facilitate the creation of, and issue permits for, affordable housing for 9-12 chronically homeless persons in Newton. [07/06/15 @ 4:18 PM]

**Action: Held 8-0**

**Note:** Councilor Hess-Mahan noted that the Committee received the letter to HUD from the Planning Department identifying 6 sites for potential development for 9-12 chronically homeless persons.

Mr. Freas explained that the City is committed to moving forward with developing these units and under the conciliation agreement are obligated to do so 4 years from May 12, 2016 and will do so expeditiously. The City is also equally committed to engaging with the public and the City Council on this as appropriate sites are finalized and partnerships are built which are needed to move forward and ultimately work on design and development issues.

The City identified 6 sites in consultation with the Housing Authority in particular as they are a natural partner in this activity. There is no specific or final design as to how the units could be incorporated into each of the sites at this point. Each site will require further research and vetting to determine the development potential.

Thurston Road. This site was flagged in particular because there appears to be developable land on that property.

The Golda Maier property is already in the process of considering an expansion and they indicated to the City they were interested in potentially serving this population. In this case it would be limited to seniors who also meet the definition of chronically homeless because it is a senior facility. They also learned that chronically homeless seniors are one of the populations in most need in this region.

91 Christina Street is a limited option with the opportunity to add just one unit and turn the single-family into a duplex. The City is leaning towards a more scattered site approach to allow for more diversity of people within the chronically homeless population. Different types of people have different housing requirements.

23 Considine Street is also a change from a single-family to a duplex and would be the addition of just one unit.

68-70 Wyman Street has an existing one-bedroom unit used for emergency services but it does not see a lot of use. They have two units set aside for that purpose and suggested one could be turned over for use as a unit for chronically homeless individuals

424-432 Cherry Street was previously presented to be used for homeless families, particularly women with children. The intention would be to continue that approach if this site goes forward. Within the definition of chronically homeless is if the head of household meets the definition then the units qualify. One of the reasons they went with 6 sites is that there is a point of contention in this agreement as to whether family units were intended or if they can only be units to serve individuals. That is something that would have to be worked through should this site be developed. The City has been exploring the option of purchasing this and it would then come before the Council.

The City is not limited to these 6 sites and Mr. Freas said he would welcome any other suggestions. Even since the letter was published, more sites have been added.

Councilor Hess-Mahan said all the sites identified came with the recommendation and qualification that the approval required would be a comprehensive permit under Chapter 40B, but Councilor Hess-Mahan pointed out that the Zoning Board of Appeals has been invoking the 1.5% "safe harbor" standard. Mr. Freas noted that the 1.5% ruling does not block a project, it simply removes the appeal option of the HAC which the City would not make use of, so this would not be an issue. The Chapter 40B approach seemed to be the simplest approach. Zoning relief could be required through a special permit or 40B, but each of these sites identified would make more sense under 40B.

The City is developing a milestone list in order to facilitate meeting the May 12, 2020 deadline. They are working on identifying development and service provider partners and they hope to do that this summer. With those in hand they can better set a path forward. Councilor Kalis asked if the Committee could see that when developed.

Councilor Kalis moved hold on this item and the Committee voted in favor unanimously.

Meeting adjourned.

**Respectfully Submitted,**

**Ted Hess-Mahan, Chair**

other authorizations or by easements, covenants or agreements, the provisions of this Chapter shall prevail.

(Ord. No. S-260, 08/03/87)

### 1.1.4 Validity

Nothing in this Chapter shall be construed as establishing regulations or restrictions which are not uniform for each class or kind of buildings, structures, or land, and for each class or kind of use in each district.

Ord. No. S-260, 08/03/87

### 1.1.2. Effect of Invalidity

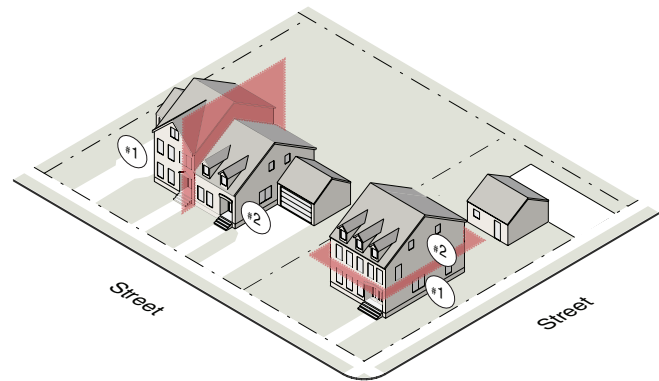
If it is determined by a court of competent jurisdiction that any provision of this Chapter is invalid as applying to any particular land, building or structure by reason of such land, building or structure having been placed in an excessively restrictive district, such land, building or structure shall thereby be zoned in the next least restrictive district created by this Chapter.

(Rev. Ords. 1973 §24-33)

## Sec. 1.1. Rules of Measurement

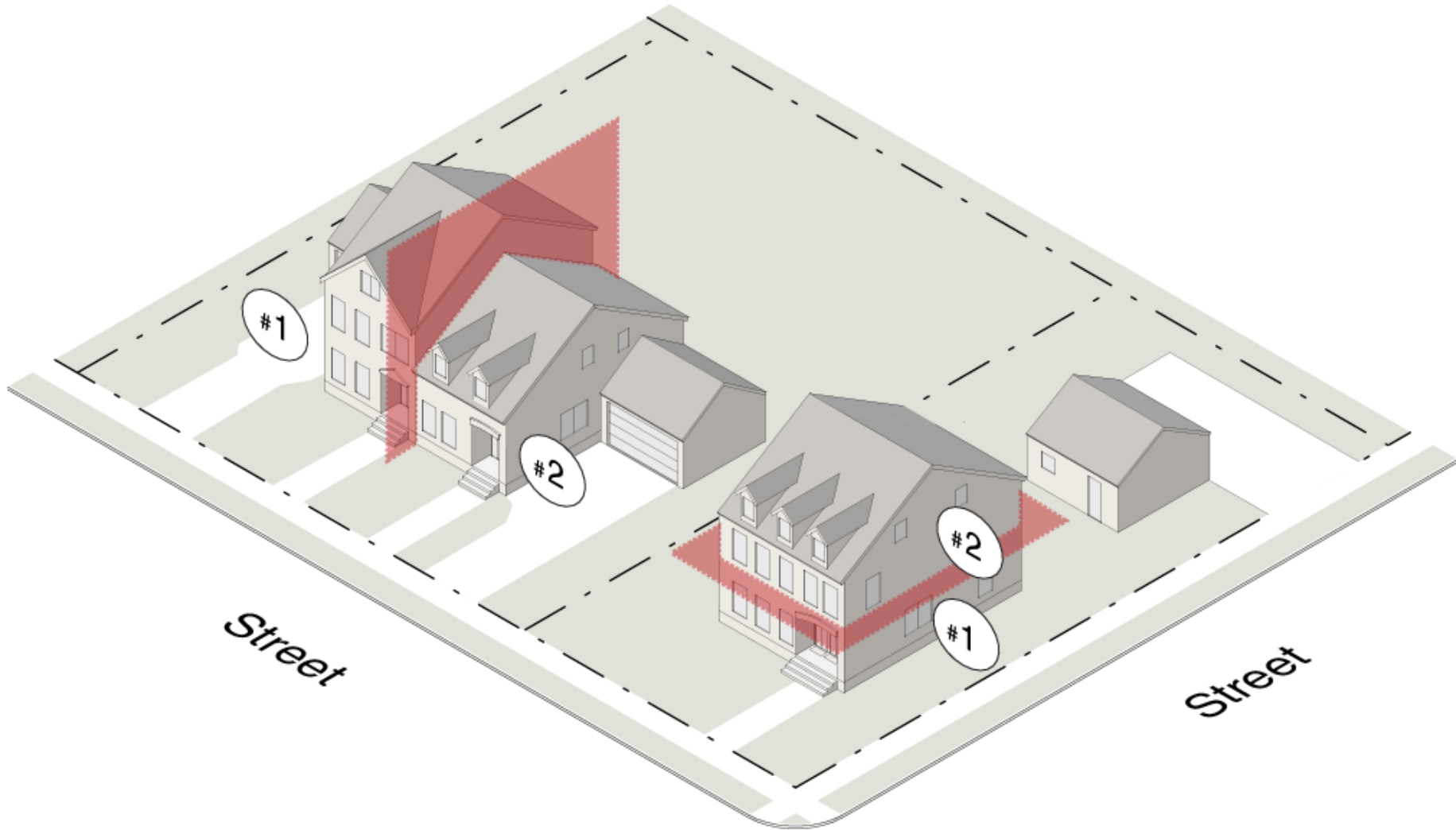
### 1.1.1. Building Types

- A. **Single-Family, Detached.** A building or structure that contains only one dwelling unit.
- B. **Two-Family, Detached.** A building that contains 2 dwelling units and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire maximum height of one or both units, or is divided horizontally so that one dwelling unit is above another.



- C. **Single-Family, Attached.** A building or structure that either:
  1. Contains 3 or more dwelling units, attached to one another at the ground level and each having a separate primary and secondary access at ground level; or
  2. Contains 2 dwelling units and is not a two-family detached dwelling.
- D. **Multi-Family.** A building or structure containing 3 or more dwelling units.
- E. **Dwelling Unit.** One or more rooms forming a habitable unit for 1 family, with facilities used or intended to be used, in whole or in part, for living, sleeping, cooking, eating and sanitation.

(Ord. No. X-38, 12/02/02)



# Zoning and Planning Committee

1

## **GARAGE SETBACK & DIMENSION REGULATIONS**

**#222-13(2) PUBLIC HEARING**

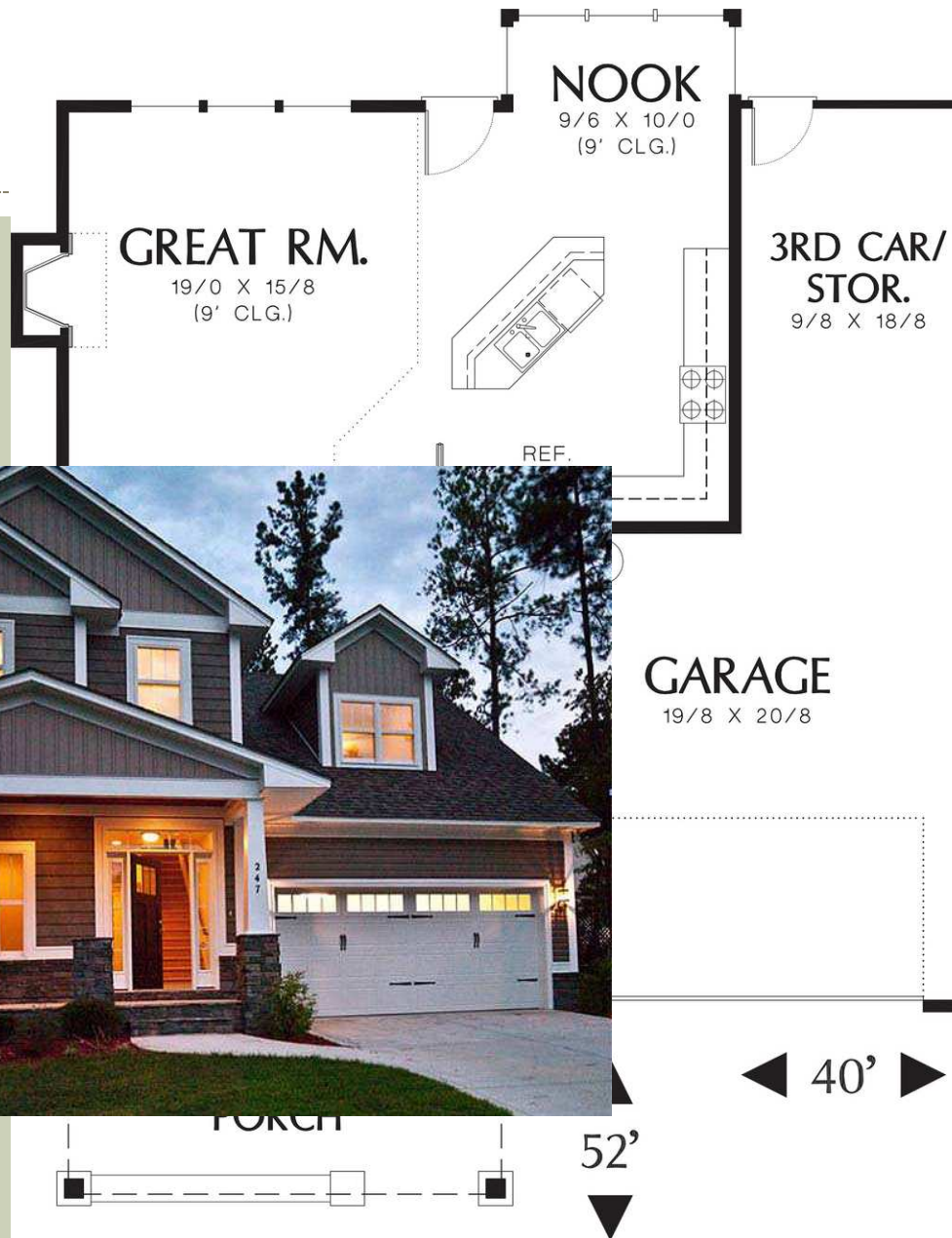


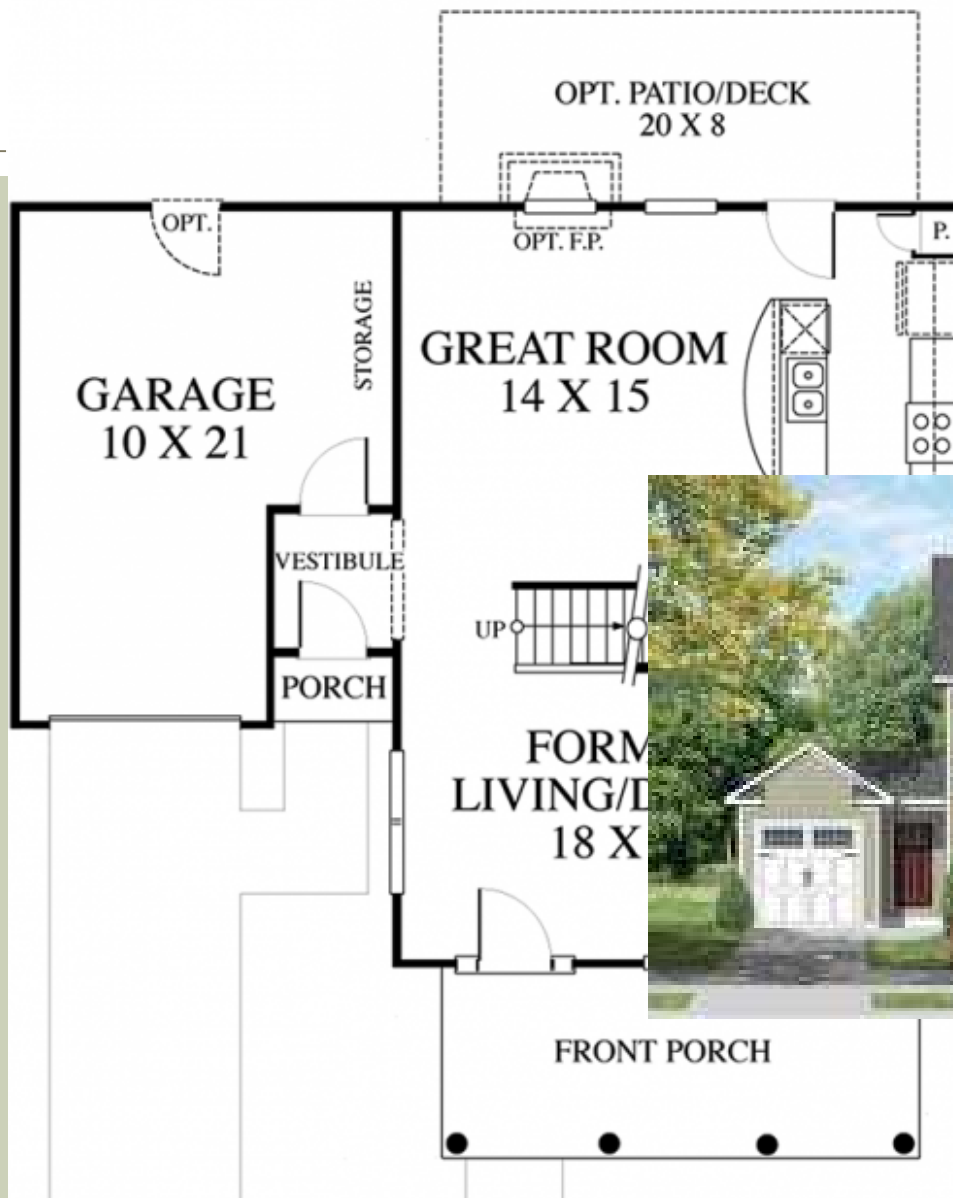


# Proposed Regulations

3

- Consolidates garages related regulations into one section
- Places Garage Setback in line with building façade.
- Up to 50% of street facing building façade.





# Next Steps

6

- Zoning & Planning Committee Work Session
- Vote by the City Council