

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, MARCH 23, 2015

Present: Ald. Johnson (Chairman), Danberg, Kalis, Sangiolo, Yates, Baker, Hess-Mahan and Leary

City Staff: James Freas (Acting Director, Planning & Development Dept.), John Lojek (Commissioner, Inspectional Services Dept.), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#266-14 ALD. BLAZAR, YATES AND DANBERG requesting:

1. to amend Section 22-50 to require that in the event there is a transfer of legal or beneficial ownership of a preferably preserved property during the demolition delay period, the full demolition delay period will restart from the date of the transfer of ownership;
2. and further requesting to amend Section 22-50 to require that in the event a transfer of legal or beneficial ownership of a preferably preserved property occurs after the expiration of a demolition delay period but prior to the issuance of a demolition permit, no demolition permit shall issue until the new owner complies with the procedures of Section 22-50(c)(5).
[07/07/14 @ 12:35PM]

ACTION: **HELD 8-0**

NOTE: At the first discussion of this item in February, Ald. Danberg had explained that the item was docketed to combat the practice of developers asking homeowners to apply for demolition permits, then taking over the property at the tail end of the delay period. The developer could then immediately demolish a home without any burden on them whatsoever. The Newton Historical Commission had expressed that they would like to see these measures in place.

Cambridge Ordinance

Ald. Danberg had asked Marie Lawlor, Assistant City Solicitor, to research the City of Cambridge ordinance. Ms. Lawlor noted that the Cambridge ordinance requires a 6 month demolition delay. The owner then needs to start the demolition within the next six month but can apply for extensions of time for good cause. Cambridge does not have any mention of transfer of ownership relative to a demolition permit or demolition delay.

Other Communities

James Freas, Acting Director, Planning Department explained that his staff is looking throughout the state to see if the proposed restrictions on demolition delays and permits exist in any other community. They would also be trying to assess any potential impacts, results or problems that might arise from adopting them in Newton. He felt these requirements would further the goal of

the NHC and was supportive. Ald. Yates suggested that Katy Holmes reach out to the Massachusetts Historical Commission to determine if there are any examples of this model and what the results have been.

Inspectional Services Response

Commissioner of Inspectional Services, John Lojek, felt these changes would not affect developers' behavior because they always figure out a way to circumvent requirements. They will just wait out the delay, have the owners demo the house and then take over from there. It would not be that difficult to arrange. He feels what this actually do is reduce the purchase price. If a developer does have to wait, they will just subtract their carrying costs from their offer and there would still be no burden to them.

Follow Up

Ald. Danberg would do some more research on this with the Planning Department and bring it back to Committee with results. Ald. Hess-Mahan suggested having a public comment meeting on this item before a vote is taken.

Ald. Danberg moved hold and the Committee voted in favor.

#447-14 ALD. SANGIOLO proposing an ordinance requiring the submission of building plans with applications for full or partial demolitions. [11/13/14 @ 2:03PM]

ACTION: **HELD 8-0**

NOTE: Ald. Sangiolo had several ordinances from other communities, which were distributed at the meeting and are attached. These are examples of communities that require submission of plans with a demolition application. Cambridge has it as a requirement of their application but not in their ordinance.

Ald. Sangiolo provided draft language as follows:

Delete 22-50(c)(2).

Replace with the following (and re-number rest of the section):

(2) Only the person, partnership, corporation, or realty trust, which is the owner of the building or structure which is in whole or in part fifty or more years old at the time of application for a demolition permit, may apply.

(3) If the owner of the building or structure seeks to demolish, in whole or in part, a building or structure which is in whole or in part fifty or more years old, said owner shall file a demolition review application with the commission for a determination as to whether the building or structure is historically significant and shall provide the commission with the following information:

- a) a dimensioned site plan of existing conditions and of the proposed replacement project. The site plan should indicate the relationship to the surrounding structures and properties.*
- b) schematic elevation drawings of the existing building and proposed replacement project (can be indicated on the same drawing). Dimensions and construction material should be indicated. Elevations that demonstrate the relationship to neighboring structures are preferred.*
- c) any application that also requires zoning relief should also include a copy of the application for said zoning relief - variance or special permit.*
- d) photographs of all existing facade elevations of the building or structure to be totally or partially demolished*
- e) a description of the proposed plans for demolition and the reason(s) therefore.*

Marie Lawlor explained that the current Newton ordinance calls for plans to be submitted at the time of a preferably preserved hearing for a demolition permit before the Newton Historical Commission (NHC). It is her understanding, however, that the NHC decided that reviewing plans at the time of the hearing was not prudent and was slowing down the process significantly. Each hearing was turning into a design review process. The decision was made to require the applicant to wait 4 months before coming back to the NHC with plans for review to receive a waiver. William Roesner, former member of the NHC confirmed this policy. The objective of the demolition delay, after all, is to encourage an owner to find a way to preserve the structure and not go through with the demolition.

Ald. Sangiolo felt that although the process of reviewing plans at the preferably preserved hearing was lengthy, she felt many good things came out of that process and it was productive. Now, some people actually come to meetings and said they have no plan to demolish their home, but want to have the permit in their back pocket just in case that's what a buyer might want. She did not feel that was how things should work. If the plans were made known, at least neighbors and the NHC would know what would be built.

Some Committee members felt that this proposed amendment would be at odds with the other proposed amendments that lengthen the time for review and for the demolition delay itself. Reviewing plans at the time of the hearing would speed up the overall process for a property. But more importantly, the role of the NHC is to determine historical significance not to be a design review body. The backlog will become huge and decisions might start to be made based on personal choice about design instead of historical context. It would be better to make demolition delays and permits non-transferrable, as was previously discussed, and not go this route.

Some Committee members were reluctant to require homeowners to invest money to develop plans for a replacement structure at the beginning of the process. If a structure is then found preferably preserved, the homeowner would have to wait up to a year, and at the very least 4

months to begin any building. It may be premature and may be better left for later in the process. Some also felt investing in plans up front would dissuade a homeowner from thinking about preserving the house. As was mentioned, Cambridge does require the plans up front, but their delay is only 6 months.

Ald. Johnson would like to see how all the docketed items relative to this issue will work together. She wanted to be sure there were no unintended or conflicting outcomes. She also wondered about the protections of a Conservation District as another tool to accomplish the preservation of historic homes. Mr. Freas said he would be speaking to Katy Holmes about Conservation Districts. Historic Districts place more onerous restrictions on homeowners while Conservation Districts provide more specific protections and may be more flexible for homeowners.

Follow Up

Ald. Sangiolo said she could be persuaded to amend her original request and put the requirement later in the process. She would like to use the language she submitted and place it in Section 5 instead of Section 2 of the ordinance. Ms. Lawlor will work on a draft incorporating the amendments.

The Committee voted to hold this item.

#376-14 PLANNING & DEVELOPMENT DEPARTMENT requesting that **Chapter 30 ZONING** be deleted in its entirety and replaced with the Zoning Reform Phase 1 Zoning Ordinance. [10/22/14 @ 7:48PM]

ACTION: **HELD 8-0**

NOTE: An updated version of the draft zoning ordinance was provided to the Committee. Mr. Freas thanked his staff for their diligent and hard work. He noted that tremendous progress has been made with just a few issues to resolve:

- A definition for Listed Standards needs to be added.
- Places of Assembly definition was creating conflicts so it was removed. Staff feels the context of the term is sufficient and in other sections the specific types of places of assembly are called out. Ald. Sangiolo asked Mr. Freas to send her an email pointing out all the places this could be found in the ordinance.
- Religious Institution definition should be looked at in terms of exemptions. The language in the ordinance right now is from the state and it may go too far for a local ordinance.
- Accessory Apartments section had some process pieces removed from it, mostly the review procedures (former RAAP) and what is required to submit an application. Nothing has changed about the procedure, it is just not included in the ordinance and that information will be provided elsewhere. Ms. Lawlor felt this would need to be specifically called out in any advertising language for a public hearing on the zoning ordinance.
- Zoning Board of Appeals section may need a reference to the enabling statute.
- Amendments section only references the Zoning & Planning Committee. It may need to state this differently or mention the land use Committee.

Definitions of Lot and Site

The Law Department provided an opinion as to how defining the terms “lot” and “site” would affect the zoning ordinance, which was provided in the Friday packet.

Maura O’Keefe, Assistant City Solicitor, explained that incorporating a definition of lot and site when up until now there had been none, may cause existing zoning ordinances to take on new meanings that were not intended upon enactment. There could be unintended consequences with a new definition and conflicts with current context. If definitions are to be incorporated, it would be best to wait for further review in Phase 2.

The Committee agreed to follow the Law Department recommendation and not include definitions of “site” and “lot” at this time. It will be revisited in Phase 2.

Follow Up

The last revisions will be made to the draft zoning ordinance and the document will be posted on the City’s website. It can be found at

<http://www.newtonma.gov/civicax/filebank/documents/65171>

There is a concordance table being updated as well which will be a cross-reference for the old and new ordinances, which will also be posted. A public hearing will be assigned for April 13, 2015.

The Committee voted to hold the item.

#80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31PM]

ACTION: **HELD 8-0**

ACTION: The Committee held this item with no discussion.

Meeting adjourned

Respectfully Submitted,

Marcia T. Johnson, Chairman



Article 85 Demolition Delay Review

Information, Application Instructions & Determination of Significance Process

To print the application, visit the website at: www.cityofboston.gov/landmarks/article85/
Contact Boston Landmarks Commission staff at (617-635-3850) Environment Department, Boston City Hall, Room 709, Boston, MA 02201

On February 6, 1995, the Boston Zoning Code was amended to include a demolition delay policy (Article 85, Chapter 665 of the Acts of 1956 as amended). Demolition Delay provides a predictable process for reviewing requests to demolish buildings by: 1) establishing an appropriate waiting period during which the City and the Applicant can propose and consider alternatives to the demolition of a building of historical, architectural, cultural or urban design value to the City; 2) providing an opportunity for the public to comment on the issues regarding the demolition of a particular building; and by 3) minimizing the number and extent of building demolition where no immediate re-use of the site is planned.

Article 85 Demolition Delay Review pertains to the demolition of buildings located within the city's limits, as defined below and is administered by the Boston Landmarks Commission (BLC). Proposed demolition of individually designated Boston Landmarks or buildings within a local historic district shall be reviewed by the BLC or appropriate District Commission.

Location and Age Criteria for Article 85 Demolition Delay Review

- All buildings located in either the Downtown or Harborpark.
- All neighborhood buildings at least fifty years of age.
- All buildings located in a Neighborhood Design Overlay District.

Application

It is the responsibility of the applicant to submit one complete, signed application with required documentation and to factor the review and potential delay period into the project schedule. City of Boston Inspectional Services Department (ISD) will not issue a demolition permit without a BLC Article 85 Determination or Exemption. Review carefully the application and required documentation before submitting. **Incomplete, faxed or emailed applications will not be accepted.**

Applications may be filed in person, by messenger, or by mail addressed to:

The Boston Landmarks Commission
Boston City Hall/Room 709
Boston, Massachusetts 02201

Article 85 Required Documentation

The following is a list of documents that **MUST** be submitted with this application. **Failure to provide accurate documentation will cause a delay in the review process and may result in a rejected application.** All documents should be no larger than 11x17.

1. **PHOTOGRAPHS:** 3x5 or larger *current* color photographs of the property, properties affected by the proposed demolition and surrounding areas must be labeled with addresses and dates. Major elevations of the building(s) and any deterioration or reason for demolition should be documented. Photographs of the subject property seen from a distance with neighboring properties are required. All photographs must be keyed to a map (see below) to provide a thorough location description. **Images from the internet are not acceptable.**
2. **MAP:** A map showing the location of the property affected by the proposed demolition must be submitted with this application. The map must be an 8 ½ x 11 portion of a street map, such as from a BRA locus map or an internet mapping site.
3. **PLOT PLAN:** A plot plan showing the existing building footprint and those of buildings in the immediate vicinity must be submitted with this application. Assessing parcel maps will be accepted, if the footprint of the relevant structure(s) is illustrated.

4. **PLANS and ELEVATIONS:** If a new structure is being planned, a site plan, building plans and elevations of the new structure(s) must be submitted. **If no new building is planned**, submit plans for site improvements and/or describe the proposed use and treatment of parcel. (Parking, landscaping, clear debris, fill excavations, etc.) **Do not submit sheets larger than 11x17.**
5. **PROOF OF OWNERSHIP:** Proof of ownership must be submitted with the application. A copy of a property deed, property tax assessment bill, or other official documentation of property ownership is required.

NOTARIZED SIGNATURES (BOTH REQUIRED): Both the applicant's and the legal property owner's signatures must be notarized. Failure to supply notarized signature(s) will result in a rejected application. In cases of multiple ownership, the chair of the condominium or cooperative association or authorized representative (such as a property manager) shall sign as owner; in cases of institutional ownership, an authorized representative of the organization shall sign as owner. Environment Department personnel cannot be responsible for verifying the authority of the individuals to sign the application. Misrepresentation of signatory authority may result in the invalidation of the application or determination.

NOTE: Copies of all documentation submitted with this application (photographs, maps, plot plans, etc.) should be retained by the applicant should additional copies be necessary for the commission hearing. Additional materials will be requested if a hearing is required; see "Article 85 Demolition Delay Review Hearing Preparation" in this information packet.

Determination of Significance

The staff of the Boston Landmarks Commission shall have ten (10) days from the date of the submission of a complete application to apply the criteria below and determine whether a demolition permit may be issued or whether a public hearing before the Boston Landmarks Commission is required.

Article 85 Criteria for Determination of Significance

- A. The building is identified in the Landmarks Commission's Comprehensive Preservation Survey as: (i) listed on the National Register of Historic Places; (ii) recommended for such listing; or (iii) the subject of a pending application for such listing.
- B. The building is the subject of a petition to the Landmarks Commission for designation as a Boston Landmark.
- C. The building is historically or architecturally significant because of period, style, method of building construction, or important association with a famous architect or builder.
- D. The building has an important association with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the City.
- E. The building is one whose loss would have a significant negative impact on the historical or architectural integrity or urban design character of the neighborhood.

Please note that a determination of significance as described above does not necessarily mean the structure meets the criteria for local designation as a Boston Landmark.

Determination of "Not Significant"

If staff of the Boston Landmarks Commission finds the structure proposed for demolition does not meet any of the above criteria, a "Not Significant" determination letter will be issued; you must present this letter when applying for a demolition permit at the Inspection Services Department. No further process under Article 85 is required

Determination of Significance: Public Hearing for Significant Structures

If staff of the Boston Landmarks Commission (BLC) finds the structure meets any of the criteria above, a determination of significance will be issued. The BLC is then required to schedule an Article 85 Demolition Delay Review public hearing within forty (40) days of having received a complete application. See *Determination of Significance: Public Hearing for Significant Structures* document for more information about the required process. This document is available on the BLC website.

DEMOLITION: LAND DEVELOPMENT

Contact: Zoning (608) 266-4551

The Plan Commission is required to grant approval of demolition permits for all **principal** structures in the City of Madison. Examples of principal structures include most single-family residences, multi-family buildings and large commercial structures. Accessory structures like residential garages and sheds are exempted and do not require Plan Commission approval. The purpose of the review of demolition requests is to aid in the implementation of adopted City plans, to protect neighborhood character, preserve historic buildings, and encourage the reuse and/or relocation of existing buildings. Demolition permit approval is also required in order for a principal building to be removed or relocated from its current property. (For more information, please see MGO Sec. 28.185

If the Director of the Building Inspection Division has determined that a principal building is structurally unsound, the Zoning Administrator may issue a demolition approval for a building if it has not been used at any time as a single-family or multi-family residential dwelling and is not a landmark or in a local Historic District or a Neighborhood Conservation District.

PROCESS OVERVIEW:

1. **Discuss with City Zoning and Planning staff**

Applicants for any project including a demolition permit for a principal building must first meet with Zoning and Planning staff before submitting their application. Please call Planning at (608) 266-4635 and Zoning (608) 266-4551 to schedule an appointment to discuss your project.

Where to go:

Department of Planning and Community & Economic Development Madison Municipal Building
215 Martin Luther King Jr. Blvd., Suite LL 100
Madison, WI 53703
Hours: 7:30 a.m. to 4:30 p.m., Monday through Friday

2. **Notify the district alder, neighborhood association and interested parties**

The applicant is strongly encouraged to discuss his/her proposal with the district alder and neighborhood association and nearby property owners prior to submitting their application.

Also, the applicant or his/her agent is required to notify the alderperson for the district and neighborhood association(s) in which the property is located in writing **30 days prior to filing** their application. The written notification may be sent by US Mail or e-mail.

Prior to the filing of an application that includes a demolition permit approval from the Plan Commission, the applicant or his/her agent is also required to notify a list of interested persons registered with the City within the same timeframe as the written notification requirement above. Please use the [interested parties notification web tool](#).

You are also strongly encouraged to discuss your proposal directly with nearby property owners prior to submitting your application.

3. **Submit Application for Demolition Permit**

Except for special circumstances, you will need to submit an application for a demolition permit approval to the Plan Commission. If the building to be demolished is an historic landmark or in an historic district,

you may also need to receive approval from the Landmarks Commission prior to submittal of your application. Please contact the City's preservation planner at (608) 266-6552 for more information on the Landmarks Commission process.

What to include:

- A completed Land Use Application (pdf) [check the box for "Demolition Permit"] Instructions (pdf)
- All required supporting documents and plans (see Land Use Application (pdf) and Supplemental Requirements (pdf))
- Copies of written communications to the district alderperson and neighborhood association
- The review fee. (see Instructions (pdf))

A public hearing before the Plan Commission will be scheduled once the application has been accepted for review. Property owners and occupants within **200 feet** of the boundaries of the property will be notified of the application and the hearing date. The request is also advertised in the City's official newspaper and a sign is provided for the applicant to post on the property. The applicant will be informed of the time and place of the public hearing in a letter sent by the Zoning Administrator following submittal of your application.

4. Following Plan Commission approval of the demolition permit request

If the applicant's application to demolish the structure is approved, the Planning Division will send the applicant or his/her agent a letter outlining the conditions of the approval. Once the conditions in the letter have been met as verified by City staff, a building permit to raze the structure(s) may be issued.

In general, you may need to complete the following as part of receiving permits to demolish your structure:

- Sewer Plug Permit is necessary to plug the existing laterals so that materials do not migrate into the sewerage system. The existing laterals may be abandoned or may be reused. The sewer plugging inspection fee is \$100 and there is a \$900 deposit.
- Water Service Meters must be properly removed. Please contact the Water Meter Shop at (608) 266-4765.
- Private Utilities (including telephone, cable TV, gas, electrical or any other private service for the property). The owner or designee must contact the individual companies that provide private utility service to building that is being demolished to ensure that the appropriate utilities services are properly disconnected or removed prior to demolition.
- If an area of 4,000 square feet or more of land is being disturbed, then an Erosion Control Plan is required.
- A Reuse & Recycling Plan (pdf), which is approved by the City's recycling coordinator.

5. Obtain your building permit and completing the demolition

After the Plan Commission approves the demolition permit and the conditions of that approval have been satisfied, the applicant may obtain a building permit to raze the building at the Plans Review/ Permit Counter in the Department of Planning and Community & Economic Development offices at the address above. The minimum demolition permit fee for an accessory building is \$20 and for a single-family house is \$150. The exact fees will be determined at the time the permit is issued.

The building permit to demolish is valid for 6 months; once the demolition begins, the permit expires in 30 days. City inspectors will visit the site during and after demolition to insure that the work complies within City and State Building Ordinances.

Remember to call the utility companies to disconnect service before demolition starts.

Related Forms & Handouts

- [Land Use Application](#) (pdf) [Please check the box for “Demolition Permit”]
- [Directions](#) (pdf)
- [Supplemental Information](#) (pdf)
- [Development Guide](#) (pdf)
- [Permit to Plug Sewer Lateral](#) (pdf)
- [Erosion Control and Stormwater Management Permit](#)
- [Permit to Excavate in the Right of Way](#)
- [Reuse & Recycling Plan](#) (pdf)
- [Plan Commission Meeting Schedule and Submission Deadlines](#) (pdf)
- [Landmarks & Construction in Historic Districts](#)

Have Questions?

Contact [Zoning](#) - (608) 266-4551



Development Center
285 Hamilton Ave.
Palo Alto, CA 94301
(650) 329-2496

Demolition Permit Procedures

1. Complete a building permit application for each structure to be demolished.
2. **Utilities Disconnection:** Electrical, natural gas and water utilities shall be disconnected prior to issuance of a demolition permit. The applicant must submit a completed Utility Removal form to the Utilities Business Office located on the 2nd floor of City Hall, 250 Hamilton. The Utility Engineers will prepare work orders for service disconnection and meter removal. As a rule, allow 7-10 working days for work to be completed. When the disconnections are complete, the Utilities Department will notify the Building Department.
3. **Bay Area Air Quality Management District (BAAQMD):** Obtain an approval (J-number) from the BAAQMD for each demolition project and submit the J-number to the city prior to permit issuance. www.baaqmd.gov
4. **Construction & Demolition Diversion Program (C&D):** Prior to permit issuance, a waste management plan must be completed and submitted through Green Halo. The City of Palo Alto now uses Green Halo Systems, a free service, to create waste management plans and track demolition and construction waste. Applicants can set up an account on the internet at www.greenhalosystems.com or by calling 1.888.525.1301 prior to issuance of permit.
5. **Regulated Tree Protection:** Complete the Tree Disclosure Statement (TDS) form that describes tree protection requirements. Regulated trees (street trees, protected trees, all commercial property trees) must be protected with temporary fencing installed as shown on Tree Protection Detail #503 and the Tree Technical Manual, Section. 2.00. When construction activity is within the drip-line of a protected tree, a certified arborist tree preservation report is required before the Planning Department can approve a project for demolition or building permit issuance. Further details are available at: http://www.cityofpaloalto.org/planning-community/tree_technical-manual.html

Note: For residential projects, demolition permits are issued concurrently with the building permit. However, if the existing structures are to be deconstructed, the demolition permits can be issued in advance of the building permits. Please contact Scott McKay, scott.mckay@cityofpaloalto.org, for additional requirements.