

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 28, 2015

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

Absent: Ald. Hess-Mahan

Also Present: Ald. Norton

City Staff Present: James Freas (Acting Director, Planning Dept.), Maura O'Keefe (Assistant City Solicitor), Rachel Blatt (Urban Designer), Karyn Dean (Committee Clerk)

#338-14 ALD. HESS-MAHAN, KALIS, SANGIOLO AND DANBERG proposing a Large House Review ordinance requiring design review and approval of by-right single and multi-residence residential structures exceeding certain dimensional limits to be determined, to expire by December 31, 2015. [09/05/14 @ 9:39AM]

ACTION: **HELD 7-0**

NOTE: Ald. Sangiolo addressed the Committee. She referenced two real-estate ads that were attached to the agenda. One house on Ruane Road was being advertised as having drawings available for an 8,000 square foot estate; the other was on Watertown Street and advertised as being built to between 5,700 - 6,000 square feet of living space. These examples speak to the issue of losing smaller houses and having them replaced with oversized homes, which is why this docket item was brought forward as an interim measure since Phase 2 of zoning reform will likely be a lengthy process.

The last time the Large House Review (LHR) item was discussed, it was suggested that the docketers put together a Review process as well as a Permitting process. Drafts of both were attached to the agenda. (*Note:* Ald. Sangiolo will change the reference from Planning Board in the draft to Planning Department) Ald. Sangiolo also provided a Design Review Criteria, which is used by the Town of Wellesley and was distributed at the meeting. It is attached to this report. The Urban Design Commission (UDC) would use these criteria in their review of projects in order to make recommendations.

The Review Process Ald. Sangiolo drafted was borrowed from the Town of Cohasset which has been in effect since 2004. In this process, if a replacement building will be more than 125% of the original size, then a design review process would take place. This would not be a binding decision, but instead a review with suggestions and guidance from the UDC.

The Permitting Process is modeled after the Town of Wellesley's current LHR regulations which have been in effect for maybe 3-5 years. This proposed process would result in a binding decision. She changed the thresholds as Wellesley's are based on square feet. She substituted that for the same additional 25% as was proposed in her draft Review Process. There was a

flow chart attached to the agenda which explained the process, attached here for reference as well.

Ald. Sangiolo noted that she is not interested in subverting the Special Permit process. If the application would need a special permit, after the Boards and Commissions have a chance for their review, the Urban Design Commission would pass their conclusions/decision/recommendation onto the Land Use Committee and the Board of Aldermen to be taken into consideration in their deliberations on a special permit.

Ald. Sangiolo noted that these were general suggestions on both processes and not married to any of the language or steps. While she preferred the permitting process to the review process, she was open to any other suggestions from the co-docketers as well as anyone else and asked the co-docketers to edit or add anything they find pertinent. She chose 25% as the threshold, but it might be something to reconsider or find other triggers. For a smaller home, 25% could be a very small addition but for a large home it could be quite substantial. This is all about context and finding the right balance for a particular neighborhood, not stopping all construction or bigger houses. She felt the review process could work because at least projects would be looked at with some context-based goals in mind, which would be an improvement. There would be an appeal process, of course. The hope is to get the homeowner to work away from something that is out of context, and towards something that is in context and reasonable for the lot, the neighborhood and the streetscape.

Committee Questions/Comments

Some Committee member felt that only a binding permitting process would make sense. The purpose is to regulate those who do not want to be regulated, so providing a review with non-binding guidance would not improve the problem. It was asked if the Design Criteria should be further defined. Ald. Sangiolo noted that any of the co-docketers could propose and insert any other information she they felt would be helpful.

A Committee member asked about the process flow if other boards and commissions are involved. Historic District Commissions have the capacity to modify the zoning ordinances, which most people don't realize. It is generally designed for cases in which houses in an old part of the City are closer to the street than the current setback. The setback could be modified in order to maintain the streetscape. It is unusual and rarely used, but it is there. The historic commissions do wrestle with the problem of scale in neighborhoods. This proposed process is taking that model and moving into larger arenas than the historic districts.

Ald. Sangiolo noted that some historic district commissions do not feel they have the authority to make zoning modifications. In her personal experience, she has found that the Auburndale Historic District Commission does not want to do design review and shy away from it. Perhaps conversations need to take place with them so they understand their authority.

It was asked if the idea she is proposing is to have the design committee make recommendations to boards and commissions that are already in play in certain situations. In those cases where there are no boards or commissions that have any role in review, any large house expansion

would go through the UDC and then it has the controlling authority. Ald. Sangiolo said it was not her intention to have the UDC advise any boards and commissions which already have jurisdiction over a particular project. She wanted to follow the current model and then have boards and commissions with jurisdiction send their recommendations to the UDC. In Wellesley, their design review team does not insert themselves into the other processes. It was suggested that Planning Department have a conversation with Wellesley to see how that works when parallel jurisdictions come into play.

Committee members asked how this would alter the special permit process. Ald. Sangiolo noted that the UDC would not render any decisions on zoning. The special permit process comes into play largely when someone wants to do something outside of what the current zoning allows. She is not transferring authority to another body to deal with special permit and zoning regulations and is not touching the Land Use process. The UDC is comprised of those with expertise in design, architecture, etc. and they could give a recommendation which would then be forwarded to the Board of Aldermen. There was concern about adding another layer to an already onerous process. Ald. Sangiolo said she would give the UDC a timeframe of 30 days in which to come up with a decision or recommendation, depending on which model may be adopted. She didn't feel it was more onerous than going to the Conservation Commission or the Historical Commission. It just depends on whether the Committee feels there needs to be some design review based on what is being built in the City right now. She reminded the Committee that it was those concerns by residents and some Board members which precipitated the demolition moratorium conversation in the first place.

It was asked if Wellesley's process seems to be working. Ald. Sangiolo reported that Wellesley uses square footage as a way to trigger a review process but the Town has seen that builder's go just under the threshold in order to avoid it all together. It has not been as effective as they'd hoped. It was pointed out that it does keep the size of the house down, however.

A Committee member suggested having the Planning and Law Departments work on some draft language which lays out the process steps in a clear way and what criteria would be used. It was also suggested that a statement of intent be included which describes the goal of the ordinance. There was concern that this ordinance be structured in such a way that does meet the goal of controlling the scale of projects in context. If it cannot reach that goal, then perhaps this is not the correct vehicle.

Planning Department Comments

James Freas, Acting Director of the Planning Department explained that his department is starting to look at current proposals and developments to see how they would be impacted if this process were in place. Rachel Blatt, the Urban Designer, is staffing the UDC and she is currently looking at the 25% proposal and what that would work out to for houses throughout the City: It could range from an additional 250 square feet to more than 1500 square feet; most often houses that are adding 25% or more require a special permit; most of the new homes are being built without a special permit; and many additions require a special permit. She noted that the 25% effects small and large houses very differently. It could capture a 250 square foot addition to a small home, but not capture a 1500 square foot addition in a really large home. This is

something to consider. Perhaps there should be an exemption for smaller homes or sliding scales.

Public Comment

Ald. Sangiolo asked for public comment to get an idea from residents if this is something that seems reasonable or if they had some other direction they would like to see this go.

Larry and Kathy Wangh, 20 Duffield Road stated they have been struggling with this process next door to them for the past 6-12 months. They feel there is no holistic view up front and instead each committee or board acts independently and doesn't understand what is happening on the ground. This kind of review process at the beginning would be invaluable. The inherent goal should be a holistic view so that information is shared by all those who have authority in a building project in the City. There is the house or building to consider, but there is also the environment to consider, the trees and the context of the neighborhood. The tree roots need to be considered as well as the canopy. Trees don't end at the trunk but roots can travel far beyond and need to be taken into consideration when building. Cambridge has stronger regulations on cutting down trees on private property. The spaces between the houses are important in order to have a good feeling and have some breathing room. A large, tall new house 7 feet from a property line of a smaller house is out of context.

Ald. Sangiolo pointed out that she did specifically include the Tree Warden in the process.

Dina Davis, Waban, stated that she hates every time she sees a house come down and be replaced with another that does not fit into the neighborhood. She came back from vacation this summer to find 3 houses in her area torn down. One was next store to her and was about 1200 square feet valued at \$630K and is being replaced by a 4000 square foot house valued at \$2.8M. She has seen the design and it is elaborate for her small street with small houses. All the trees are being taken down and the builder took down trees that were not included in the site plan. They also cut the roots of a big oak tree that is on her land. With the canopies gone she has to replant her garden to suit the sunlight instead of the shade. They also took down some of her trees on her property. She has spoken with Marc Welch. Committee members felt there should be a fine involved. She feels there needs to be a more holistic look ahead of time and this could be helpful in keeping context in the neighborhoods.

Ron Mauri, Bradford Road, stated that if the LHR is pushed too hard, then it might persuade people to go to a special permit process as it may be an easier path. Unintended consequences may ensue so there is a lot to be thought about on this.

Name inaudible, A resident asked a question about a ZBA appeal and what could be appealed. Committee members answered that the only party permitted to appeal to the ZBA is the party who is denied. It is not a process for a neighbor to appeal a decision. Ald. Johnson said an appeal process for this cannot be determined because they don't know what this process will be at this point.

Follow Up

Mr. Freas explained that the Planning Department will continue to look at these questions and will come back to Committee next time with a presentation on their findings and recommendations. He noted that zoning determines setbacks and size of house etc. so there has to be an independent basis of jurisdiction for this, which is something to consider.

Committee members suggested that more information be gathered from Wellesley and Cohasset to determine if they are achieving the results they intended. Needham is starting to discuss a LHR process. Wellesley's goal was to deal with mansionization but other communities may have different concerns.

Ald. Johnson noted that it is important to understand how all the existing processes and ordinances could work with something like LHR. As mentioned earlier, it is important to keep in focus the desired goal of the process and not try to solve too many tangential problems.

Ald. Yates moved to hold this item and the Committee voted in favor.

Planning Department Update

Mr. Freas explained that Rachel Blatt has recently been hired as the Urban Designer. The Department is also formulating a community engagement position, whose focus would be to take the work of the department into the community, work with developers, engage residents, etc. They hope to fill that soon as it becomes defined. They are in the second interview stage on a new Land Use Planner position. This would move one of the Land Use Planners into the Housing Division which would fill all the positions there.

Open positions include the Long Range Planner and the Director position. Mr. Freas was hoping to have a draft report from the consultant on the Management Study, but due to some family issues with the consultant, they are a bit behind schedule. When he has that he will be able to report back.

Respectfully Submitted,

Marcia T. Johnson, Chairman

Design Review Criteria

The Urban Design Commission will look at the following criteria when evaluating a proposal under the Large House Review permitting process:

1. Preservation and enhancement of the existing landscaping. The landscape shall be preserved in its natural state by minimizing tree and soil removal. Grade changes shall be in keeping with the general appearance of neighboring developed properties.
2. Relation of buildings to the environment. The proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings with respect to:
 - a. height
 - b. street facade
 - c. rhythm of solids and voids
 - d. spacing of buildings or signs
 - e. materials, textures, and color
 - f. roof slopes
 - g. scale.
3. Open space - All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
4. Signs and advertising devices - The size, location, design, color, texture, lighting and materials of signs and advertising devices shall be in harmony with significant architectural features of existing and proposed buildings and structures and with surrounding properties.
5. Heritage - Removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

