

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

WEDNESDAY, OCTOBER 14, 2015

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

Absent: Ald. Sangiolo, Kalis and Yates

Also Present: Ald. Brousal-Glaser

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

#109-15      HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 20% with the additional 5% set aside for middle income households. [04/24/15 @ 2:38PM]

**ACTION:**      **HELD 5-0**

**NOTE:** James Freas, Acting Director of Planning, explained that this is one of four items that were docketed by the Mayor in support of increasing the City's supply of affordable housing and diversifying the housing stock. In particular, this was derived from the fact that as housing prices continue to increase, housing is becoming out of reach for middle income households. In response to that, the Mayor would like to consider making changing to the inclusionary housing provisions within the zoning ordinance to expand the requirement for affordable units to 20% from 15%. The extra 5% would be reserved for 120% AMI (area median income) households, where the original 15% is reserved for 80% AMI households.

Ald. Hess-Mahan noted that when the City increased the percentage from 10 to 15, many years went by before Newton ever saw another project that came close to coming under inclusionary zoning. He does not want to pass something that no one is going to take advantage of, however, he does like that the City is aiming towards the middle class between 80%-120% AMI. He's just not sure how it will work. He wondered if the real estate community has been involved in the conversation. Mr. Freas said they have not done that at this time and this is something they will also be addressed as part of the City's Housing Strategy. The Housing Strategy report is anticipated for the end of February. The next meeting will be on November 22 which will be a 3-4 workshop style event.

Clarification of Applicability

Ald. Hess-Mahan said there is some lack of clarity as to when inclusionary zoning applies. The concern is that there should be clarification on the current ordinance before adding anything to it. Currently there is ambiguity as to whether it applies to all projects in excess of a certain number of units, or only projects that require certain types of relief. Initially, the inclusionary zoning ordinance was challenged when it was a mandate without any off-setting benefit to the developers and developers were winning those cases. At that point, inclusionary zoning was

linked to seeking certain relief. There is some confusion with what should be required for Austin Street and in general this needs to be explored and any loopholes closed before any amendments. Barnstable County upheld a mandate that did not offer any off-setting benefit to developers so it could be possible for Austin Street as well, but the ordinance has to be clear.

#### Payment-in-Lieu

Ald. Brousal-Glaser asked about payments that developers can make in-lieu-of creating affordable units. She could not recall the number, but she felt it was very low and seemed like a very easy solution for developers. Ald. Hess-Mahan said it works out to roughly half the cost of one unit's sale price, based on 6 units, which goes into a Housing Trust Fund which can be used for various other projects. Mr. Freas said explained that the Housing Strategy is proposing policy changes including in the zoning ordinance and in the inclusionary housing area. Whether that particular issue will be taken up under this docket item or in the strategy is unclear, but it is well worth exploring. Ald. Johnson also mentioned that a developer can also contract with an organization to develop the affordable units off-site, but that is rarely if ever been done. Mr. Freas and Ald. Johnson noted that there is a question as to whether the additional 5% kicks in after a certain size threshold. Currently, the 15% applies to developments from 6 units as well as hundreds of units. Larger developments have more market rate units to support more affordable units so it may make sense to set a higher threshold for that extra 5%.

Rachel Blatt, Urban Designer reported that she went to a session at the Planning Conference which included Cambridge, Somerville and RKG who is doing the Housing Strategy. They were all looking at the middle income piece. As for the fee-in-lieu, they were looking for opportunities to get cash when rounding the number of units. For example if the percentage would require 1.6 units, then the .6 would be converted to a monetary value which could be put into the system.

#### Next Steps

The Housing Trust Fund has several hundred thousand dollars in it right now and a project coming up may add another million dollars to that. Mr. Freas explained that an RFP for housing will be released in the spring as an implementation tool of the Housing Strategy. The money going into that will be partly federal funds, but also money in the Housing Trust Fund.

Mr. Freas said that the real estate community needs to be brought into the discussion to assess whether Newton can afford to make this requirement and what the market is like. It does address a population that is slipping through the cracks. These units are not as deeply affordable as the first 15% so the subsidy is less expensive for builders. What the City gains is a permanently protected unit so whatever direction the market goes in, that unit stays in the middle-income position. New York City has inclusionary zoning up to 200% AMI. Inclusionary ordinances were pulled from around the region to see what communities are doing and there is quite a bit of interest in the issue.

The Committee voted to hold this item.

#108-15 HIS HONOR THE MAYOR requesting consideration of changes to the Zoning Ordinance that would facilitate the creation of accessory apartment units, supportive of Newton's seniors. [04/24/15 @ 2:38PM]

**ACTION:** **HELD 5-0**

**NOTE:** These two accessory apartments items were discussed together. Ald. Johnson reported that the Accessory Apartment Subcommittee has been doing some work on the ordinance and wanted to update the Committee. The Subcommittee decided to remove all the procedural language from the ordinance which made it unwieldy and the minimum unit size was reduced to 250 square feet. The Board is unable to make any changes to building code requirements, such as egress and other safety and construction issues.

Mr. Freas noted that the Mayor docketed this item because accessory apartments provide a great opportunity to diversify the housing stock overall. It is also an opportunity for seniors to create or legalize an existing unit in their home in order to generate income to make their homes affordable to age in place, and/or allow family members to assist them as they get older. Ald. Baker said he is cautious about the argument to allow increased density in order for homeowners to make money. Mr. Freas said that data is showing that the City's population of households earning under \$125K is rapidly dropping, while those earning more than \$200K are rapidly rising. That pattern is also true for the senior population with those earning less moving out and those earning more moving into projects that are being built.

Mr. Freas explained that a home with an accessory apartment would essentially have no additional density impact if there can be no more people living within that home, including those within the accessory unit, than otherwise would be allowed under current zoning. The City of Newton allows a family and up to 3 lodgers to live in a single family home. Since the current dimensional requirements are targeted towards issues of density, they would essentially become superfluous if that allowed number of people was maintained. Ald. Baker noted that they put the dimensional requirements in place so that the properties were indeed accessory to the main home and did not become two-family homes. He is cautious about removing those controls. It was noted that there are also other kinds of controls about the number of doors and exterior alterations that should help assuage concerns about the migration to a two-family house. Ald. Baker maintained that it would still add density and there could be an impact to the infrastructure of the city and the schools. He would not like to see the opportunity so widely available it affects the character of the community in an unanticipated way.

There was discussion about how to determine what "family" means and how it is not possible to define it in all its possible permutations. Portland, OR, defines "household" which includes a number of traditional criteria for family and also up to 5 unrelated individuals.

Ald. Johnson said in her reading and research she has found that the direction of housing in the wider community is towards smaller units. This model helps seniors as well as young people. In Newton the number of people between 19-25 increased by 9% but head of households in that same range declined dramatically. The 19-25 year-old demographic are living with their parents because they cannot afford to live on their own. Seniors who own homes but cannot afford to

stay there might sell their home and as the trend has been in the City, those homes are being demolished and replaced with larger houses or a multi-unit houses. An accessory unit could allow them to stay and preserve the built environment.

Follow Up

The Committee would like to see a clean version of the ordinance for the November 9<sup>th</sup> meeting, along with some language for public hearing advertising.

The Committee voted to hold this item.

#61-10            ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN  
requesting a discussion relative to various solutions for bringing existing  
accessory and other apartments that may not meet the legal provisions and  
requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]

**ACTION:**    **HELD 5-0**

**ITEM:**    See note above.

#278-14            ALD. YATES proposing to amend **Chapter 30** of the City of Newton Ordinances  
to restrict the two-unit structures allowed by-right in the multi-residence districts  
to structures with the two units side-by-side in a single structure, or one above the  
other as in double-deckers. [07/31/14 @ 12:03PM]

**ACTION:**    **NO ACTION NECESSARY 5-0**

**NOTE:** Both this and the item below were encompassed in the new zoning ordinance, which  
was passed by the full Board of Aldermen on October 5. The Committee voted No Action  
Necessary on both items.

#222-13            ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG,  
FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof  
connector", "Common wall connector", and "Dwelling, two-family" in **Chapter**  
**30**, Section 30-1 of the City of Newton Zoning Ordinances.  
[06/07/13 @ 1:31 PM]

**ACTION:**    **NO ACTION NECESSARY 5-0**

**NOTE:**    See note above.

Respectfully Submitted,

Marcia T. Johnson, Chairman