

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, JANUARY 28, 2013

7:45 PM
Room 202

ITEMS SCHEDULED FOR DISCUSSION:

Re-appointment by His Honor the Mayor

#6-13 JACK LEADER, 613 California Street, Newton, re-appointed as a member of THE ECONOMIC DEVELOPMENT COMMISSION for a term to expire November 7, 2015 (60 days 03/07/13) [12/13/12 @ 10:36 AM]

Re-appointment by His Honor the Mayor

#26-13 HARVEY CREEM, 110 Huntington Road, Newton, re-appointed as a member of the ZONING BOARD OF APPEALS for a term to expire February 1, 2016. (60 days 03/23/13) [01/11/13 @ 12:46 PM]

Re-appointment by His Honor the Mayor

#27-13 STUART L. SNYDER, 30 Erie Avenue, Newton Highlands, re-appointed as an *associate member* of the ZONING BOARD OF APPEALS for a term to expire December 31, 2013. (60 days 03/23/13) [01/11/13 @ 12:46 PM]

Re-appointment by His Honor the Mayor

#28-13 PETER W. KILBORN, 31 Buswell Park, Newton, re-appointed as an *associate member* of the ZONING BOARD OF APPEALS for a term to expire December 31, 2013. (60 days 03/23/13) [01/11/13 @ 12:46 PM]

Re-appointment by His Honor the Mayor

#29-13 TREFF LaFLECHE, 86 Prince Street, West Newton, re-appointed as an *associate member* of the ZONING BOARD OF APPEALS for a term to expire December 31, 2013. (60 days 03/23/13) [01/11/13 @ 12:46 PM]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

Re-appointment by His Honor the Mayor

#30-13 BARBARA HUGGINS, 122 Albemarle Road, Newton, re-appointed as an *associate member* of THE ZONING BOARD OF APPEALS for a term to expire December 31, 2013. (60 days 03/23/13) [01/11/13 @ 12:46 PM]

REFERRED TO PUB.FAC, ZONING&PLANNING, PROG & SERV COMMITTEES

#316-12 DEPARTMENT HEADS HAVENS, ZALEZNIK, LOJEK requesting amendments to **Sec. 26-30. Licenses for cafe furniture on sidewalks.** to streamline the procedure allowing businesses to place café furniture on public sidewalks. [09/24/12 @ 3:17 PM]

There will be an update on the following item which had been referred from the Zoning and Planning Committee to the Public Safety and Transportation Committee:

#299-12 DIRECTOR OF PLANNING & DEVELOPMENT, requesting a discussion regarding a policy-based management plan for parking. [09/24/12 @ 3:17 PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

Re-appointment by His Honor the Mayor

#25-13 DANIEL GREEN, 46 Glen Avenue, Newton Centre, re-appointed as a member of the CONSERVATION COMMISSION for a term to expire January 2, 2016. (60 days 03/23/13) [01/03/13 @ 1:59 PM]

Re-appointment by His Honor the Mayor

#332-12 DANIEL GREEN, 46 Glen Avenue, Newton Centre, re-appointed as a member of THE CONSERVATION COMMISSION for a term to expire October 25, 2015. (60 days 01/04/13) [10/25/12 @ 10:51AM]

#152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]

#391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

#260-12 ALD. YATES proposing amendments to Sec. 30-19 to increase the vitality of village centers without adverse impacts on the residential neighborhoods around them. [08-17-12 @ 1:01 PM]

#406-12 ALD. JOHNSON requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding campaign signs, and the failure of candidates to comply with current removal requirements. [11/19/12 @ 9:24AM]

#328-12 DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report [10/26/12 @ 11:08 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#322-12 HIS HONOR THE MAYOR submitting the FY14-FY18 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter. [10/09/12 @ 2:38 PM]

#308-12 ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @ 3:59 PM]

- #282-12 ALD. JOHNSON, CROSSLEY, DANBERG, SANGIOLO requesting quarterly reports, starting the last month of the quarter beginning December 2012, Re-implementation of *Ramping Up: Planning for a More Accessible Newton*.
[09-09-12]

REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES

- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer.
[09/10/12 @ 1:17 PM]
- #220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a) be clarified with respect to “lot width,” “lot area,” or “lot frontage.”
- #219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “*Space, usable open*” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #215-12 ALD. YATES proposing a RESOLUTION requesting that the Planning Department and the Economic Development Commission develop a Main Streets Program following the model of the National Trust for Historic Preservation to revitalize the Newtonville and Newton Centre business districts.
[07-17-12 @2:55PM]

- #214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment. [07-09-12]
- #162-12 THE ECONOMIC DEVELOPMENT COMMISSION requesting a one-year moratorium, starting immediately, where no bank shall be allowed to be built or opened for business on the ground floor of any building in any Business District within the city unless granted a Special Permit from the Board of Aldermen. [05-17-12 @ 4:18 PM]
- #64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances Sec 30-24(f)(8)b) to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities. [03-14-12 @8:54AM]
- #48-12 ALD. ALBRIGHT requesting a discussion with the Executive Office and the Planning Department on the creation of a housing trust. [02/10/2012 @ 9:13AM]
- #25-12 TERRENCE P. MORRIS, G. MICHAEL PEIRCE, JASON ROSENBERG, JOHN LOJEK proposing a zoning ordinance amendment to amend section 30-15(c)(3)(b) by inserting the word “*subject*” before the word “*lot*”, the word “*and*” before the word “*such*” and the word “*adjoining*” after the word “*such*” so that the paragraph reads as follows:
(b) if the subject lot was held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the subject lot and such adjoining lot had on it a single-family or two-family dwelling. [01/30/2012 @ 3:14PM]
- #11-12 ALD. HESS-MAHAN & LINSKY requesting discussion on the implementation and enforcement of the provisions of Section 30-5(c)(1) of the Newton Ordinances which requires that “[w]henver the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties.” [1/11/12 1:01PM]
- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons,

by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts.
[05- 10-11 @3:19 PM]

- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

- #102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK & CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

- #95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms “flat roof” and “sloped roof” be defined in the zoning ordinance.

- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @12:00 PM]

- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @11:34AM]

- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]

- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]

- #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]

#60-10 ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [02/23/10 @ 3:24 PM]

#164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

Respectfully Submitted,

Victoria Danberg, Acting Chairman

JACK M. LEADER

OBJECTIVE To be re-appointed to the Economic Development Commission - City of Newton.

To continue to service my clients' financial and insurance needs, providing expert advice, counsel and cost-efficient programs and services.

PROFESSIONAL ACHIEVEMENTS

MEMBER, NEWTON NEEDHAM CHAMBER OF COMMERCE 2010 to Present

ECONOMIC DEVELOPMENT COMMISSION 2004-PRESENT

Chair of Commission in 2007 and Vice Chair in 2006.

Initiated, in concert with the MBTA, a review of Riverside with the ultimate goal of redevelopment.

In 2006, the Austin Street Project was started with the backing of all Ward 2 Aldermen. In 2011, chaired the Austin Street JAPG project and co-wrote the final report with Phil Herr with enormous input from 12 citizens of Newton.

UNIVERSITY OF MASSACHUSETTS, AMHERST ALUMNI ASSOCIATION GOVERNING BOARD 1987-2001

Elected President of the UMASS Amherst Alumni Association 1992-1996

Established a dues-paying membership; negotiated the University's first Alumni Credit Card program, bringing \$3.5M to the Association

Maintained a seat on the Governing Board until 2001

TREASURER, ALBERMARLE PLAYGROUND PROJECT – PHASE II 2003-2006

Fund-raised to expand existing handicapped accessible playground to enhance the original structure.

ASSISTANT SOCCER COACH – BAYS 1998-2003

SKILLS

Over a 35 year period, of all the awards I have earned, the greatest is the 95% retention rate with my clients. I strive to find out what they need, and then find the right market for the products.

Proficient in Microsoft Office Tools

WORK HISTORY

INSURANCE BROKER, PHOENIX MUTUAL

Jan 3 1978- Jan 1988

INSURANCE BROKER, WS GRIFFITH

Jan 1988 to Jan 2001

INSURANCE BROKER, BAY FINANCIAL ASSOCIATES, LLC

Jan 2001 to Present

EDUCATION

CABOT SCHOOL 1960-1967

I had the honor of being the first class taught by Penny Smith, who went on to be the McDonald's Teacher of the Year

FRANK ASHLEY DAY JUNIOR HIGH 1967-1970

Ernest Van B. Seasholes, Principal

Newton High School 1970-1973

I was part of the Student Committee that started the SFA – Student Faculty Administration – still in existence today. Graduate Commencement Speaker – June, 1973. First recipient of the Jim Shea Memorial Award (Political Action).

University of Massachusetts, Amherst 1973-1978

Bachelor of Arts, Political Science

PERSONAL

FAMILY

Married Judith C. Haber – June 24, 1978

Two children – Nicholas H. Leader – June 7, 1987; Emma Victoria Leader – January 2, 1993.

DOMICILE

Newton, MA 1959 – 1973

107 Atwood Avenue

Amherst, MA 1973-1978

24 Merrick Circle

Newton, MA 1978-1980

55 Gay Street

Dedham, MA 1980-1983

130 Washington Street

Newton, MA 1983-Present

613 California Street

#26-13



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

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swarren@newtonma.gov

January 8, 2013

Honorable Board of Aldermen
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

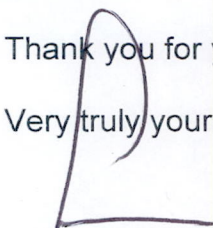
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Newton City Clerk
2013 JAN 11 PM 12:46
David A. Olson, CMC
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Mr. Harvey A. Creem of 110 Huntington Road, Newton Corner, as a full member of the Zoning Board of Appeals. His term of office shall expire February 1, 2016 and his reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,


Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

HARVEY A. CREEM
110 HUNTINGTON ROAD
NEWTON, MA 02458

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Newton City Clerk
2013 JAN 11 PM 12:50
David A. Olson, Clerk
Newton, MA 02458

Business Experience

For in excess of thirty years, I have been providing business advice to corporate management, boards of directors, corporate counsel, and to my peers. My perspective on problem solving has been influenced by my work experience as an auditor and business adviser, as a workout and restructuring adviser, as an expert witness, and as the risk management leader for my Firm.

I was associated with PricewaterhouseCoopers (and its predecessor Coopers & Lybrand) between 1966 and 2002; I was a partner in the Firm for twenty-nine years. For the first twelve to fifteen years, I had responsibility for my Firm's providing audit and consulting services to my clients. In this capacity, I worked with large entities, start-ups, and those in between; I worked with public entities, closely held entities, and family owned entities. I helped my clients go public, acquire businesses, raise funds, sell their businesses, and to improve control of their operations. During the following ten years, I switched my focus to emphasize business reorganization and restructurings (both within and without of bankruptcy proceedings), investigations of alleged fraud and financial misrepresentation, investigations of business claims and expert witness testimony related thereto. In this capacity, my clients were corporate management, trustees, lenders, and attorneys. The last seven years of my career were as the Firm's US leader for internal risk management matters. In this later capacity, I consulted with my partners as to business risks and our Firm's response thereto.

At all times as a partner in the Firm, one of my assignments was to help other partners think through difficult account and business problems.

Other Experience and Associations:

I commenced work with PricewaterhouseCoopers after having attained an MBA from Harvard Business School and a Bachelors of Science in Business Administration from Boston University. I am a Certified Public Accountant and a Certified Fraud Examiner.



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January 8, 2013

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City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

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2013 JAN 11 PM 12:46
David A. Olson, CMC
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Mr. Stuart L. Snyder of 30 Erie Avenue, Newton, as an associate member of the Zoning Board of Appeals. His term of office shall expire December 31, 2013 and his reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

STUART L. SNYDER

1

Professional Experience

Law Office of Stuart L. Snyder, P.C., Wellesley, MA

1996 to present

- Thousands of residential and commercial real estate transactions: buyer/seller representation; preparation/review of offers and purchase and sale agreements; compliance with time-sensitive pre-closing and post-closing lender documentation requirements and correspondent instructions (purchases and refinances); review of title reports; identification/resolution of title clouds and defects; examination of surveys/mortgage inspections; preparation of zoning opinions; negotiation with title insurance companies regarding risk and coverage – drafting affirmative policy language and exceptions to coverage; 1031 exchanges.
- Title insurance issuing agent for Old Republic National Title Insurance Company. Also have been agent for Lawyers Title Insurance Company, Ticor Title Insurance Company and First America Title Insurance Company.
- Residential landlord/tenant matters: preparation/review of residential and commercial leases; advice regarding landlord/tenant rights/responsibilities; dozens of residential Summary Process cases, including trials in District Court and Housing Court
- Client representation before municipal boards
- Chapter 93A consumer protections claims
- Managed two offices, including as many as four paralegals/support staff.

Law Office of Goldman & Goldman, Swampscott, MA

1991 to 1996

- Civil Litigation: responsible for client representation in lawsuits arising from all areas of firm's general practice, including: banking matters; condominium fee collections; landlord/tenant matters; claims against estates; individual and corporate matters. Tried and won first Superior Court jury trial.
- Real Estate: represented individual clients and lenders in closings for residential and commercial transactions. Conducted foreclosures.

Law Office of Englander & Sooho, Newton, MA

1990 to 1991

- As sole associate of two partners, involved at all levels in litigation of diverse matters stemming from general practice focused on civil litigation, domestic relations and real estate. Appeared in court for trials, pre-trial conferences, and motions. Met with clients, negotiated with opposing counsel, conducted legal research, attended depositions, and drafted litigation related documents.

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David A. Olson, CMC
Newton, MA 02459

Trained Mediator

- Completed forty hours of mediation training in accordance with M.G.L. ch. 233, § 23C with Mediation Works, Incorporated, Boston, MA in March, 2008.

Bar Membership

U.S. District Court for the District of Massachusetts, 1991
Commonwealth of Massachusetts, 1990

Education

Suffolk University Law School, Boston, MA
J.D., 1990

Honors: ATLA National Trial Team, Regional Semi-Finalist
Third Year Mock Trial Competition, Semi-Finalist
First Year Moot Court Competition, Best Oral Advocate

Skidmore College, Saratoga Springs, NY
B.A., English/Philosophy, 1986

Honors: Dean's List
Activities: Social Integrity Board, Appointed Chairperson
Academic Integrity Board, Elected Member

Volunteer Work

Newton Girls Soccer, Coach/Grade Coordinator
West End House Girls Camp, Inc., Board of Directors
Congregation Dorshei Tzedek, Former member of Board of Directors/Former Chair of Space Committee
City of Newton, Planning and Development Board, Alternate Member



SETTI D. WARREN
MAYOR

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Office of the Mayor

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swwarren@newtonma.gov

January 8, 2013

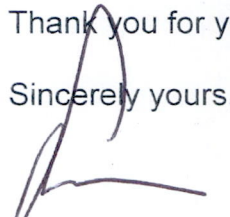
Honorable Board of Aldermen
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Mr. Peter W. Kilborn of 31 Buswell Park, Newton, as an associate member of the Zoning Board of Appeals. His term of office shall expire December 31, 2013 and his reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

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Peter W. Kilborn Resume

Peter Kilborn was the Chief Justice of the Massachusetts Land Court from 1996 until his retirement in 2003. He was an Associate Justice of the Court from 1990 to 1996. Prior to becoming a judge, he was an attorney in private practice, most recently since 1968 at Rackemann, Sawyer & Brewster in Boston, where he was a director and Managing Director. He is a graduate of Harvard College and Harvard Law School. His practice as a lawyer included extensive experience in real estate matters, including title-related issues, leasing, financing, subdivision, zoning, other land-use matters, and other regulatory matters, and bond financing, including representation of major educational and medical institutions in the Boston area. Since leaving the bench, Mr. Kilborn has been active as a mediator and arbitrator, including membership on the panel of neutrals at REBA Dispute Resolution, Inc. and the panel at Mediation Works, Incorporated. He has served as a faculty member in training programs for Massachusetts Continuing Education, Inc., as a court-appointed master, and as a hearing officer for the Commission on Judicial Conduct and the Board of Bar Overseers. He received mediation training at Mediation Works, Incorporated.

He chaired a committee appointed by the Supreme Judicial Court which reviewed the Rules of Judicial Conduct, resulting in revisions to the Code which took effect in 2003.

Mr. Kilborn lives at 31 Buswell Park, Newton, 02458. In December 2010, he was appointed a member of the City's Zoning Reform Group, which is charged with reviewing, and suggesting changes to, the Newton Zoning Ordinance.

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2013 JAN 11 PM 12:50

David A. Olson, CMC
Newton, MA 02459



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swarren@newtonma.gov

January 8, 2013

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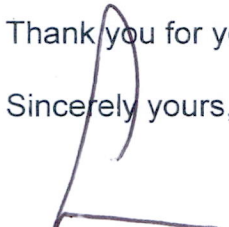
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Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Mr. Treff LaFleche of 86 Prince Street, West Newton, as an associate member of the Zoning Board of Appeals. His term of office shall expire December 31, 2013 and his reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor



TREFFLE E. LAFLECKE, AIA, LEED AP

Principal

LDa
 ARCHITECTURE & INTERIORS

Treff's professional experience has focused on providing client focused and context sensitive design and project management services. Treff has achieved local and national recognition for his expertise in the merging of historic and contemporary aspects of New England residential and institutional architecture. He is a creative leader in a collaborative search for appropriate design solutions. His dedication to excellence is evident from the smallest detail to the broadest planning gesture.

COMMUNITY EXPERIENCE**City of Newton FAR Zoning Working Group**

This 7-person team of Newton professionals and citizens has been working closely with the Newton Planning and Inspectional Services departments as well as Newton ZAP to examine, evaluate and make recommendations regarding current FAR regulations in response to the elimination of Footnote 7 in the Newton Zoning Ordinances.

Chair, Historic Newton Capital Campaign Steering Committee

This sub-committee of the Joint Board of Historic Newton is responsible for raising the \$5.5M Historic Newton Capital Campaign goal.

Member, Historic Newton Board of Directors**Durant-Kenrick Homestead & Grounds Transition Committee**

This sub-committee of the Joint Board of Historic Newton is responsible for the design, public approval, acquisition and construction of the restoration and renovation of the historic 1732 Durant-Kenrick Homestead & Grounds in the City of Newton.

PROJECT EXPERIENCE**Jesuit Community of the Weston School of Theology, Boston, MA**

Residences for 65 members of the Jesuit Community on Boston College's Brighton Campus

Appalachian Mountain Club, Crawford Notch, NH

Highland Center Lodge and Education Center, in collaboration with Carlone & Associates

First Unitarian Society in Newton, Newton, MA

Master plan, exterior and interior renovations

First Parish Unitarian Universalist, Beverly, MA

Master plan and feasibility study

Marist Brothers Retirement Community, Framingham, MA

Housing, dining and chapel

Commonwealth School, Boston, MA

Multiple Renovations including: dining room, kitchen, library, and science labs

Lesley University, Cambridge, MA

Office of Student Affairs, renovation and addition

Private Residences throughout New England

**Professional Experience**

LDa Architects, LLP, Cambridge, MA,
1992-Present

Education

University of Virginia
Master of Architecture, 1987

Dartmouth College

Bachelor of Arts, 1977

Certification

Registered Architect
Massachusetts, New Hampshire, Maine,
Connecticut, New York,
South Carolina

NCARB Certified, 2000

Teaching

Boston Architectural Center
Design Instructor/Thesis Advisor

University of Virginia School of
Architecture Studio Instructor

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1000 Commonwealth Avenue
Newton, MA 02459

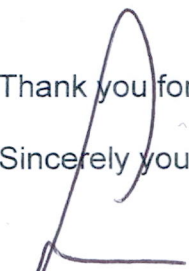
RECEIVED
Newton City Clerk
2013 JAN 11 PM 12:46
David A. Olson, CMC
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Ms. Barbara Huggins of 122 Albemarle Road, Newton, as an associate member of the Zoning Board of Appeals. Her term of office shall expire December 31, 2013 and her reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Barbara Huggins
122 Albemarle Road
Newton MA 02460

Academic

Master of Arts
Tufts University
Graduate Department of
Urban and Environmental
Policy and Planning

Juris Doctor
Boston University
School of Law

Bachelor of Arts
University of Pennsylvania

Professional

Admitted to the bar
in Massachusetts
and Mississippi

INTRODUCTION

Barbara Huggins is a partner in the law firm of Huggins and Witten, LLC, where her practice includes municipal and land use law. Prior to joining the firm, then Daley and Witten, Ms. Huggins served as Law Clerk to the Hon. Mark V. Green, then-Associate Justice of the Massachusetts Land Court; as Law Clerk to Hon. Joseph Trainor and Janice Berry, Associate Justices of the Massachusetts Appeals Court; and as Editor of Landplanner Magazine and the Land Court Reporter. She has a masters degree in planning from the Tufts Department of Urban and Environmental Policy and Planning, where she wrote her thesis on Chapter 40R and Chapter 40B. While pursuing her planning degree, she interned in the Newton Planning Department for the Zoning Administrator. Recent civic activity includes serving on the Zoning Task Force appointed by the Board of Alderman, examining the "de minimis" rule in the Zoning Ordinance. She has a daughter in the F.A. Day Middle School and Newton Youth Hockey.

REPRESENTATIVE PROJECTS

Town Counsel: Town of Stow, Massachusetts 2005-Present:
Represents the Town of Stow in legal matters relating to zoning, land use, subdivision control, permitting, and telecommunications.

Town Counsel: Town of Marion, Massachusetts 2005- Present:
Represents the Town of Marion in legal matters relating to zoning, land use, subdivision control, and permitting.

Special Town Counsel: Town of Middleborough, Massachusetts 2005- Present:
Represents to Board of Appeals for legal matters relating to comprehensive permit applications and appeals.

Special City Solicitor: City of Amesbury, Massachusetts 2005-Present:
Represents the City of Amesbury for legal matters relating to comprehensive permit applications and appeals.

Special City Solicitor: City of Gloucester, Massachusetts 2009-Present:
Represents City of Gloucester in an appeal from a comprehensive permit decision by the Housing Appeals Committee.

Special Town Counsel: Towns of Wareham and Bourne, Massachusetts 2005-Present:
Represents Towns' Boards of Appeals for legal matters relating to comprehensive permit applications.

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NEWTON, MASSACHUSETTS

Barbara Huggins
122 Albemarle Road
Newton MA 02460

PRIOR EMPLOYMENT

Intern: Department of Planning and Development, City of Newton, Massachusetts Spring 2005: Reviewed applications for residential construction under city ordinance, and researched and drafted memoranda on zoning topics.

Law Clerk: Massachusetts Appeals Court 2001-2003: Law clerk to the Hon. Joseph Trainor and the Hon. Janis Berry.

Editor, Department of Environmental Protection Reporter and Land Court Reporter; Editor-in-Chief, Landplanner Magazine, 1999-2000: Prepared case summaries and digest entries for decisions issued by the Land Court and the DEP, including cases under the state Wetlands Protection Act. Prepared and edited articles on issues arising from zoning, development, and the permitting process for Landplanner Magazine.

Law Clerk: Land Court Department, Trial Court of Massachusetts 1997-1999. Law clerk to Hon. Mark Green. Court's jurisdiction includes zoning and subdivision control law.

Associate, Maxey Wann & Begley, Jackson, MS 1994-1995
Practice focused on administrative, gaming, and business law.

Senior Staff Attorney, Mississippi Supreme Court, Jackson, MS, 1995-1996. Prepared memoranda on cases and motions before the Court. Drafted and edited opinions and orders for publication.



Setti D. Warren
Mayor

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Department of Planning and Development
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Candace Havens
Director

MEMORANDUM

DATE: January 28, 2013

TO: Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Bob Rooney, Chief Operating Officer
John Lojek, Commissioner of Inspectional Services
Dori Zaleznik, Commissioner of Health and Human Services
Candace Havens, Director of Planning and Development *SH*

SUBJECT: Sidewalk Café Ordinance

CC: Board of Aldermen
Bruce Proia, Fire Chief
Howard Mintz, Interim Police Chief
Dave Turocy, Commissioner of Public Works
Maura O'Keefe, Assistant City Solicitor

A new sidewalk café ordinance is proposed to enliven the streetscape with safe and inviting sidewalk cafes through a streamlined process for both merchants and staff. Zoning and Planning reviewed an initial proposal for a sidewalk café ordinance on January 14, 2013 followed by a joint meeting between Programs and Services and Public Facilities Committees on January 23, 2013 at which they reviewed the draft proposal. Overall, the Committees supported the concept, including change in oversight from DPW to Health and Human Services, subject to second call to allow Committee members to review ordinance language prior to voting on this matter. The questions and comments received from all three committees are summarized in this report. If the Committee is generally satisfied with the direction of this initiative, staff will complete preparation of ordinance language consistent with Committee preferences for review on February 11th. If acceptable to the Committee, staff also asks for its approval to advertize for a public hearing on February 25th.

1. How many restaurants might lose their permits?

In 2012, the Board of License Commissioners issued 28 Sidewalk Seating permits to the restaurants listed below. Only one of the restaurants with a current permit is at risk of losing its permit due to lack of sidewalk width. Each storefront and section of sidewalk presents unique challenges and opportunities for outdoor dining and the safe placement of café furniture depends on the sidewalk depth, dimensions of furniture, and how it is positioned relative to the existing conditions. There are also some situations that are challenged by the existence of obstacles that could accommodate seating if arranged away from tree wells or other obstructions, if existing (illegal) sandwich board signs are removed, or if benches (particularly backless ones) are used instead of tables and chairs.

Village	Street	Restaurant	Sidewalk Width (building to inner curb)	Permit allowed under new system?
Auburndale	349 Auburn Street	Breadsong Corner Bakery		
Auburndale	419 Lexington Street	Wally's Wicked Good Ice Cream		
Chestnut Hill	15 Commonwealth Avenue	Dunkin' Donuts		
Chestnut Hill	19 Commonwealth Avenue	White Mountain Creamery		
Newton Centre	749 Beacon Street	Sweet Tart	10.5' at widest point, currently a bench	yes
Newton Centre	753 Beacon Street	Bill's Pizza	8 – 12	yes
Newton Centre	759 Beacon Street	Coconut Café	10.5	yes
Newton Centre	761 Beacon Street	Appetito	12' at widest point	yes
Newton Centre	796 Beacon Street	B. Street	8' currently a bench	yes, if remove sandwich board
Newton	1185 Centre Street	Subway	10	yes

[Type text]

Centre				
Newton Centre	1187 Centre Street	Cupcakes on Centre	6 – 10' (tree pit)	yes
Newton Centre	1191 Centre Street	Tango Mango	9.5'	yes
Newton Centre	549 Commonwealth Avenue	Mediterranean Grill	(did not measure, but located in small commercial building with parking not in village center)	
Newton Centre	30 Langley Road	Johnny's Luncheonette	10.5'	yes
Newton Centre	46 Langley Road	J. P. Licks	16' at widest point	yes
Newton Centre	47 Langley Road	Sweet Tomatoes	11' at widest point, but curb ramp and street furniture	maybe
Newton Centre	19 Pelham Street	Inna's Kitchen	5'	no
Newtonville	108 Madison Avenue	Bread & Chocolate	13' (6' private area + 7' sidewalk)	yes
Newtonville	311 Walnut Street	George Howell Coffee	7.5'	yes, if remove sandwich board
Newtonville	335 Walnut Street	Rox Diner	6' front (street furniture), 7.5' side	not in front, but yes on side/corner
Newtonville	795 Washington St	City Pizza & Pasta		
Nonantum	308 Watertown St	Vacant; former Nudo Gelateria		
Nonantum	349 Watertown St	Tommy Doyle's		
Upper Falls	1205 Chestnut Street	The Biltmore		

Waban	1649 Beacon Street	Waban Kitchen		
West Newton	15 Spencer Street	L'Aroma	n/a private patio off-street	n/a
West Newton	1279 Washington St	Sweet Tomatoes	Sidewalks are technically wide enough for café furniture, but part of sidewalk includes HC ramp and placement of furniture is awkward.	
West Newton	1375 Washington St	Blue Ribbon BBQ		
		Flatbread?		

Additional Newtonville Examples

The following businesses have not asked for permits in the past, but staff analyzed them to see if sidewalk seating could be accommodated on the sidewalks in front of their restaurants:

Village	Street	Restaurant	Sidewalk Width	Permit allowed?
Newtonville	313 Walnut Street (west side)	Vacant; former Jin-Mi Market	7.5'	maybe
Newtonville	296 Walnut Street (east side)	Vacant; ½ of former Newtonville Books	6' (many obstructions)	no
Newtonville	316 Walnut Street (east side)	Great Harvest Bread Company	8' (many obstructions)	maybe
Newtonville	324 Walnut Street (east side)	Vacant; former Lisa's Nails	10' private area + 5' sidewalk	yes
Newtonville	340 Walnut Street (east side)	Aji Sushi	8' (tree well)	maybe
Newtonville	344 Walnut Street (east side)	Brewer's Coalition	7' side and corner	yes on side/corner



Tango Mango / Cupcakes on Centre / Subway Sweet Tart / Bill's / Coconut Café / Appetito

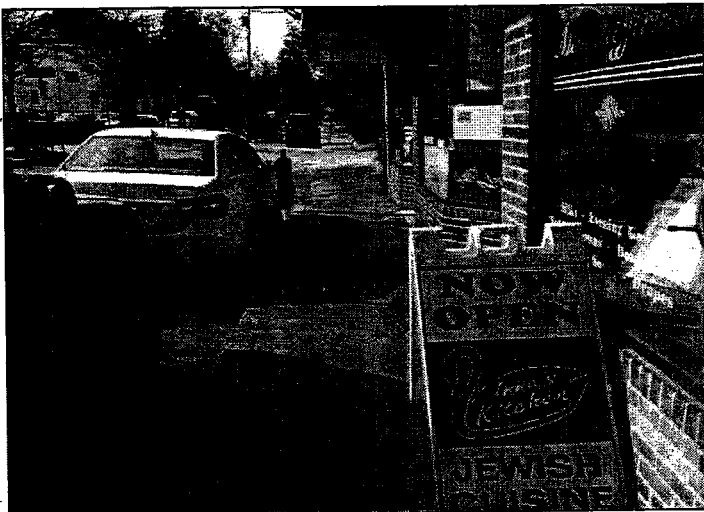
Some sidewalks technically are wide enough for café furniture, part of the sidewalk functions as a curb ramp and/or is located near a driveway making it more challenging for outdoor use.



Sweet Tomatoes Pizza, Newton Centre

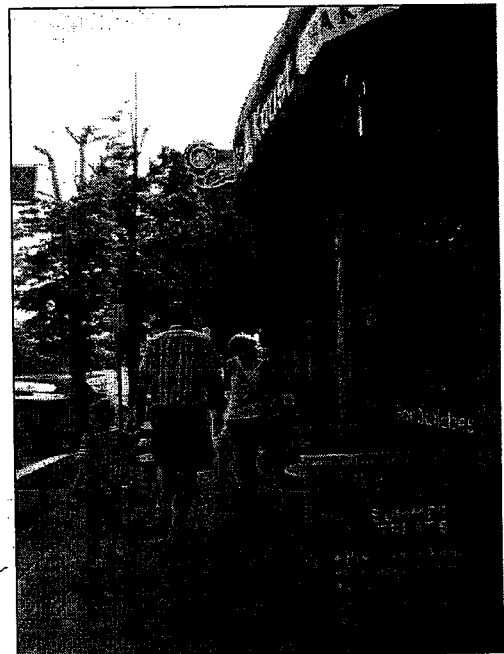


Sandwich Works, Newton Centre – left panel closest to curb is about 4 feet, right panel closest to buildings is about 4.5 feet. Useful sidewalk width depends on location of tree wells.



Inna's Kitchen, Newton Centre

The only street surveyed that does not appear to have adequate sidewalk width is Pelham Street, at about 5 feet in width.



Keltic Krust / Blue Ribbon BBQ, West Newton

Newtonville

The sidewalk on the east side of Walnut Street is wider and has fewer tree wells than the west side.



George Howell Coffee (east)



Great Harvest Bread (west)

Can there be some flexibility in the minimum clearance for accessibility?

Staff recommends a minimum of four feet of unobstructed sidewalk to allow clear access for people of all abilities between the outdoor dining areas and any other permanent or temporary structures or devices. However, the Code of Massachusetts Regulations 521 CMR Architectural Access Board reads as follows:

§22.1 General. Walkways shall include but not be limited to all walks, sidewalks, overpasses, bridges, tunnels, underpasses, plazas, courts, and other pedestrian pathways, and shall comply with the following requirements:

*§22.2 Width. Width of walkways shall be not less than 48 inches (48" = 1219mm), excluding curbstones. **An unobstructed path of travel shall be provided which is at least 36 inches (36" = 914mm) clear, excluding curbstones.***

Thus, it is legal to allow three feet clearance, although staff strongly recommends the four-foot minimum to accommodate a variety of circumstances, such as an individual in a wheel chair that may need to turn around and will need more than three feet in which to do so. If the Board wishes to make provisions for special exceptions based on circumstances in which access can be safely provided with less than four feet, staff suggests there be a provision in the ordinance language that requires review and recommendations or approval from the Commission on Disability.

Is the license revocable?

Yes. As recommended, if a restaurant fails to comply with their approval permit, the first citation will be a warning. The second complaint will require an appearance before the Commissioner of Health and Human Services who will be authorized to revoke a permit if they have failed to comply with the sidewalk café standards and/or the conditions of their permit.

How long will a permit be good for?

The current practice involves a seasonal restriction on placement of outdoor furniture although the ordinance reads that DPW grants a one-year permit. This proposed revised procedure would allow proprietors to determine when during the year the weather is suitable for outdoor seating. The proposal is to issue the permit for one year. Ald. Kalis suggested that it might be good to issue initially for more than a year to give [Type text]

assurances that the investment of the restaurant in café furniture is worthwhile; however an initial multi-year approval would complicate tracking of valid permits. Since no seasonal restrictions are proposed, it would be most efficient if the renewal cycle aligns with renewals of other licenses in the future (January to December) and come due when other renewal notices are sent. Thus, in 2013, the permits would be good from April until December. Thereafter, they would be good for the calendar year in alignment with all other permits. This change will create internal efficiencies in the processing of licenses.

How often should the applicants appear before the Licensing Board?

One of the streamlining efforts in this proposal is to eliminate the Licensing Board's role from most applications for sidewalk seating; because of their respective roles in administration of sidewalk activities, the expertise for appropriate placement of sidewalk furniture rests with DPW, ISD, Fire and Health. What is proposed here is an administrative process involving sign-offs from each of these departments and coordination by Health & Human Services. Once an application is made and all of the departments have approved it, a license would be issued by the Health Department under the direction of the Commissioner of HHS. The only situation where an appearance before the Licensing Board would be required is if an applicant seeks an "extension of premises" in order to serve alcohol in the outdoor seating area. An "extension of premises" request requires a one-time hearing before the Licensing Board. The Board would evaluate the application on five aspects, which derive from guidance from the Alcohol and Beverage Control Commission (ABCC): 1) that the restaurant has a valid liquor license; 2) that the outdoor seating area is delineated by a barrier such as a rope, handrail, or planters; 3) that the area of service is adjacent to the property and able to be seen by workers from inside the restaurant; 4) that a sign be posted at all exits reading "It is unlawful to consume alcoholic beverages not purchased on the premises or to remove them from the boundaries of this sidewalk café;" and 5) that all alcohol serving requirements for the inside of the restaurant be fulfilled for outdoor service, as well.

How can we assure that the restaurant activities will not be disruptive to nearby residential neighbors?

All sidewalk café owners will be required to comply with the noise ordinance as well as the provisions of their sidewalk café permit. Loudspeakers could be specifically prohibited. Should such activities become problematic, time limits could be placed on the operations for outdoor dining. Alternatively, any restaurant within a specified distance from a residential property could be subject to time restrictions.

Could heaters be installed on the building or placed on the sidewalk in order to extend the outdoor dining season?

According to the Fire Department this would need to be reviewed on a case-by-case basis as each site varies.

Will there be a penalty for putting out tables and chairs without a permit?

Yes. It would be a violation of the sidewalk café ordinance to fail to obtain a permit. A fine would need to be established and referenced in the City Code. Staff recommends a warning on the first offense and \$50 fine per incident thereafter.

Can we eliminate bikes on the sidewalks in our village centers to minimize disruptions?

State Laws allow for biking on sidewalks outside of commercial centers, which infers that the City can restrict biking on sidewalks in village centers.

Could more than one restaurant share the use of the sidewalk, particularly if the sidewalk is expanded in certain locations?

Unfortunately, no. The permit that is required for a restaurant to expand onto the public way explicitly states that is applicable only to adjacent property.

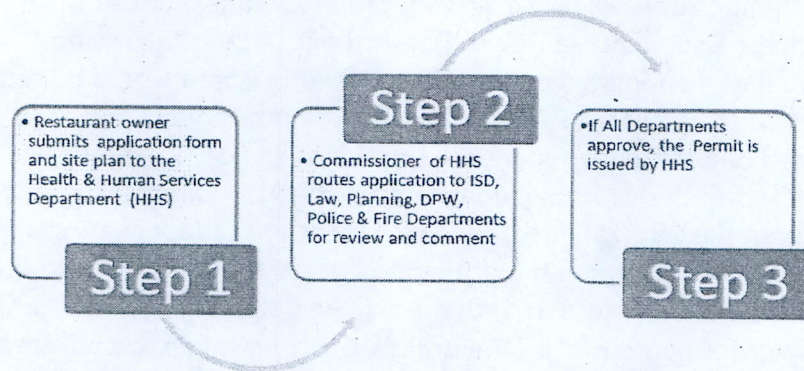
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Will there be a notification process when a sidewalk café permit is proposed?

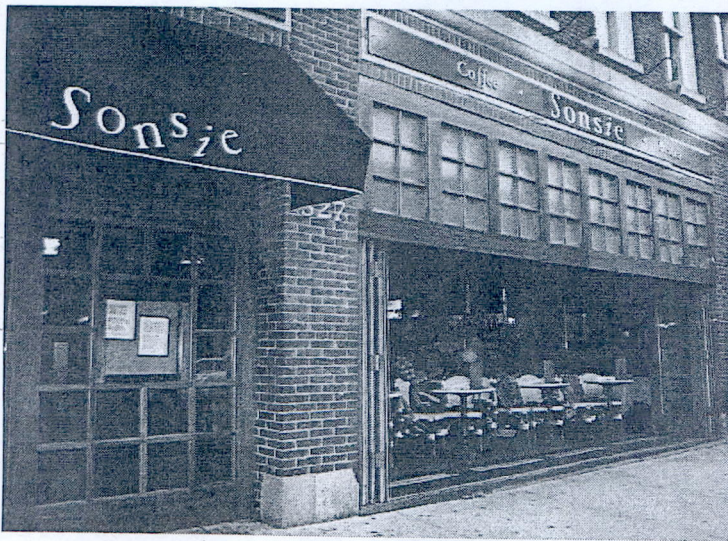
No such process has been proposed. However, a sign could be posted in front of the existing restaurant so anyone passing by could see that it is under consideration and that would provide contact information for those interested in reviewing the application.

Will routing of applications to various departments take a long time?

No. The application will be sent to all departments simultaneously with a request for a response within a specified period of time, such as a week or two. If an "extension of the premises" license for service of alcohol is sought, the applicant would need to follow the procedures for a separate application to the Licensing Board and appear at one of its monthly hearings.



Where sidewalk width is inadequate, can businesses install doors that can be opened up so there is no barrier between their patrons and the sidewalk, even if they are not on the sidewalk itself?



The state food code requires that outer openings of food establishments be protected from the entry of rodents and insects (Section 6-202.15). Since it does not involve actual use of the sidewalk, this is not covered in the sidewalk café ordinance; however, other communities have dealt with this by establishing guidelines, such as requiring routine extermination and making sure the kitchen has a door barricading the kitchen from the open area of the restaurant. This could be an area to explore. Brookline issued guidance for the practice last year and Newton could do similarly so this option could be offered to restaurateurs when sidewalk space is inadequate for café chairs or benches.