

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, JANUARY 28, 2013

Present: Ald. Danberg (Acting Chairman), Baker, Yates, Kalis, Sangiolo, Lennon and Swiston

Absent: Ald. Johnson

Others Present: Candace Havens (Commissioner, Planning & Development), John Lojek (Commissioner, Inspectional Services), Dori Zaleznik (Commissioner, Health and Human Services), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), James Freas (Chief Long Range Planner), Chris Steele (Economic Development Commission), Karyn Dean (Committee Clerk)

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]

ACTION: **APPROVED 4-0 (Ald. Swiston, Lennon and Sangiolo not voting)**

NOTE: Mr. Leader addressed the Committee. He said he wanted to stay on the Commission to see through the Riverside Project and be helpful in whatever ways he can. He also said that West Newton and Newtonville have been studied by Sazaki and MIT and one of the goals this year of the EDC is to see if they can do anything with those studies particularly around parking. There are 14 restaurants in West Newton but not enough identified parking, and acres of parking in Newtonville but only 4 restaurants. They are also advocating 55 and over housing. Ald. Kalis said he would like to see some leadership and input on Needham Street to move that project forward.

The Committee voted to approve Mr. Leader's appointment.

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]

ACTION: **APPROVED 7-0**

NOTE: Ald. Baker said he knew Mr. Creem and was pleased to move approval of his re-appointment. The Committee voted in favor.

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]

ACTION: **APPROVED 7-0**

NOTE: Director of Planning & Development, Candace Havens explained that Mr. Snyder was first appointed to be on the Planning & Development Board and served on that Board for awhile. His background is more appropriate for the ZBA and is finishing off someone else's term. This will be his first full term. The Committee voted to approve this appointment.

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]

ACTION: **APPROVED 7-0**

NOTE: Ald. Baker said Mr. Kilborn is a former judge of the Land Court and a member of the Zoning Task Force. He said he knew him well and was a distinguished member of the bar. Ald. Baker moved approval of this re-appointment and the Committee voted in favor.

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]

ACTION: **APPROVED 7-0**

NOTE: Ald. Baker and Ald. Swiston both said that Mr. LaFleche is a very dedicated member of the community. Ald. Baker said he is also on the Board of Historic Newton and has led their capital campaign. The Committee voted to approve this re-appointment.

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]

ACTION: **APPROVED 7-0**

NOTE: Ald. Swiston said she knows Ms. Huggins very well and served on the 30-15 Task Force. She was also on the Conservation Commission as a non-voting member. Ald. Sangiolo explained that that the Mayor was asked to look at some of the double appointments so that more citizens could serve on Boards and Commissions. Ms. Huggins decided to leave the Conservation Commission to work on the Zoning Board of Appeals. Ald. Sangiolo moved approval and the Committee voted in favor.

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]

ACTION: **HELD 7-0**

NOTE: Candace Havens, Director of Planning & Development, addressed the Committee. She handed out a memo at the meeting which addressed questions that had come up at previous discussions of this item in this Committee as well as Public Facilities and Programs & Services. The memo is attached to this report. Please refer to it for answers to the following questions:

- How many restaurants might lose their permits under the new regulations?
- Can there be some flexibility in the minimum clearance for accessibility?
- Is the license revocable?
- How long will a permit be valid?
- How often should applicants appear before the Licensing Board?
- How can we assure that restaurant activities will not be disruptive to nearby residents?
- Could heaters be installed in the area?
- Will there be a penalty for placing furniture outside without a permit?
- Can we eliminate bikes on the sidewalks in our village centers to minimize disruption?
- Could more than one restaurant share the use of the sidewalk?
- Will there be a notification process when a permit is proposed?
- How long will the application take to be granted?
- Could businesses instead install front windows that open up with no barrier from the sidewalk?

Additional Committee Comments and Questions

Site Plan

Ms. Havens noted that site plans will need to be submitted with applications. This must show the size of the tables and chairs as they might vary from business to business. Benches are also an option and may take up less room if the space is too tight for tables and chairs. The measurements are then taken based on how much space the furniture occupies.

Revocation Process

Ald. Sangiolo feels that if there is a potential that a business could have its permit revoked, perhaps there should be a more public process to appear before the Licensing Board and have a public hearing, rather than just meet with the Commissioner of Health and Human Services. Ms. Havens said if a business had a liquor license, the Licensing Board would be looking at any problems. Commissioner Zaleznik said that the Licensing Board has no expertise to decide on the issue of sidewalk seating. That is why the current ordinance calls for the Commissioner of the Dept. of Public Works to handle this.. The Licensing Board does not do Zoning, Inspectional Services does; or own the sidewalk, which DPW does; or manage the restaurant which is the

Health Dept.; and they don't deal with egress obstruction which would be under the purview the Fire Dept. In fact, although the Licensing Board has been deciding these permits since 1999, they are the ones who came up with 2 tables and 4 chairs model regardless of the size of the sidewalk, and there are some places that clearly do not accommodate that. For service of alcohol, that is their expertise and it makes perfect sense for them to be involved for the extension of premises for the serving of alcohol. Ald. Sangiolo said perhaps the Commissioner of Health and Human Services could conduct more of a hearing when dealing with possible revocation of permits. Ald. Baker said there may be a benefit to thinking about this a little more.

Notice

Ald. Baker wondered if there should be a different process for restaurants that are very close to residences as they might have a different impact. The state law provides that notices for liquor licenses go to direct abutters only. There may be a situation where the direct abutter is another commercial establishment but one property over from that is a residence. Ms. Havens said they have been thinking about requiring the business to post a sign in their window with contact information so that people can view the proposal before it is granted. Commissioner Zaleznik said in some circumstances, if there are several businesses in one building, the business next door may not get a notice, but the next building would. They need to find a way to include those businesses.

Enforcement

Commissioner Zaleznik said that there are businesses that put out furniture illegally. Ald. Danberg noted that enforcement generally is complaint driven, but also Commissioner Lojek said his people that are out in the City are always on the lookout for things like this. Ald. Kalis was concerned that this may be very difficult to enforce as conditions can change quickly and ISD may not have enough personnel. He wondered if the fines could be higher. Ms. Havens said that since the Health Department does regular inspections of the premises, they could check on compliance as well so enforcement would not be totally complaint driven. They could then direct the problem to the proper department. Commissioner Lojek said that HHS, ISD and the Police Department would be the main enforcement agencies. He said his experience has been that a conversation usually solves the problem. Commissioner Lojek did not think the fees needed to be higher, there just needs to be a system of enforcement on the books. Ald. Swiston said she would like the fee to be substantive enough to support the cost of enforcement.

Parking

Ald. Lennon asked what would happen with restaurants that did not have parking because of their location. Ms. Havens said there are restaurants that do not have parking but are in place legally. They would still have the same opportunity for the extra outside seats as long as they met the other requirements of the ordinance. Outside seats may not be brought inside to increase the seat count for any restaurant.

Unobstructed View

Ald. Lennon said there may not be opportunity to have a continuous unobstructed view of the outdoor café. Commissioner Zaleznik said the ABCC does not really give a definition of unobstructed view and that the language can be clarified. She felt for example, if the outdoor

café was on the side of the building and there are no windows or doors looking out onto that area, then that would not be allowed for alcohol service. The concept is to indicate that someone inside would have a reasonable chance to view the activity on the sidewalk. Ald. Lennon would like to make sure there were reasonable conversations about this requirement during the permitting process. Ms. Zaleznik said there were also other requirements necessary in order to allow alcohol service on the sidewalk café and they would all have to be met.

Length of Permit

Ald. Kalis was concerned about business owner's spending money to expand a sidewalk and then being granted a permit for only a year. He felt they should be assured a longer permit considering the investment. Ms. Havens said they would consider this point.

Neighborhood Disruption

Ms. Havens explained that loudspeakers could be prohibited outside, and/or time limits could be set for businesses close to residences. Ald. Baker said he would like to reserve the right for some limits on a case by case basis. Ald. Swiston said it could get complicated if there are too many exceptions and it may render this tool less useful. She would like to see something that may be more restrictive, but consistent and with few exceptions. She feels businesses want to be able to make judgments based on the regulations whether or not this is something that would work for them. Ald. Baker said there can be general policies, but for the few exceptions, there can be some conversations to see if there can be accommodation. He did not feel one bright line was needed but understood the desire to keep the process as streamlined as possible.

Shared Outdoor Space

The outdoor area must be adjacent to the restaurant. So it would not be possible to have shared space for several restaurants as they would not all be adjacent. This is specific to alcohol service and alcohol service has to be cordoned off, also making a shared area difficult. Ald. Sangiolo wondered if this could work if alcohol were not being served. Ms. Havens said she would find an answer. She also mentioned there have been discussions about creating a template for areas where additional benches might go throughout the City, in general. They could be associated with special permits so if someone wanted to provide some sidewalk amenity to mitigate a parking waiver, there would already be designated locations for benches or other things to enhance the public experience, but they would not be owned or maintained by any particular restaurant.

Advertising

Ald. Baker would not want any advertising on benches, chairs, umbrellas, etc. It gives an unfair advertising advantage over other businesses and he would not want to clutter the villages with excessive signage. Commissioner Lojek said they could just prohibit signage on outside furniture. *(Clerk's Note: Portable signs are already prohibited in Chapter 30-20 (d) (3). See attached)*

Public Hearing

Ms. Havens would like to schedule a public hearing on this item on February 25th. The Committee agreed to this date.

The Committee voted to hold this item.

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

NOTE: Ms. Havens provided an update on this item to the Committee. This item is no longer in this Committee and had been referred to Public Safety and Transportation. A Parking Subcommittee was formed for the Transportation Advisory Group. Please refer to the attached presentation for details.

Ms. Haven's noted that there are parking conflicts in the City and the challenge is to look at both urban and suburban elements for good balance and solutions. Keeping village centers vital and residential neighborhoods safe is essential. Zoning and the availability of parking need to be looked at. The City requires parking for all businesses on-site which is a challenge for developers and it has to be factored in for use on limited, available land, and special permits are required for waivers or off-site parking. All of this restricts the density in village centers. Overall, parking management has been inconsistent and restrictive.

A Parking Management Plan would provide guidance for policies and practices as well as consistency and efficiency. If this is done well, the plan can support and inspire village vitality. Just by making parking available ensures business activity and this can be accomplished in several ways: promoting turnover; identifying prime spaces and pricing them accordingly; providing less expensive parking further away; and rethinking time limits and making changing to parking regulations. The pricing of the spaces does not hurt business, the lack of availability does. Ms. Havens also explained that they would look into the best and most appropriate technology available in terms of meters, kiosks, etc. Parking requirements near public transit could be modified, new and different ways to satisfy parking demands could be identified, including structures if needed, and individual village plans could be implemented. Ald. Baker said there were differences between commercial and residential village centers and some sensitivity to the differences needed to be applied. Ms. Havens said this was really focused towards commercial centers but she would certainly keep that in mind.

Ald. Yates would like to adjust parking credits. He said the requirements should be reduced for various commercial uses in village centers. For smaller retailers in the heart of a village center where there is public parking, the requirements should be adjusted as opposed to businesses in a larger commercial center with more land available for parking.

Next steps include completing the draft Plan and presenting to Zoning and Planning and Public Safety and Transportation Committees. The Committee's input will be incorporated and then Ms. Havens would look for support to adopt and start implementing those parts that do not

require legislative change. Then they can see where they stand with Phase 2 Zoning Reform and bring some things forward during that review.

This item is not referred to this Committee, therefore, no vote was necessary.

Respectfully Submitted,

Victoria Danberg, Acting Chairman



Setti D. Warren
Mayor

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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

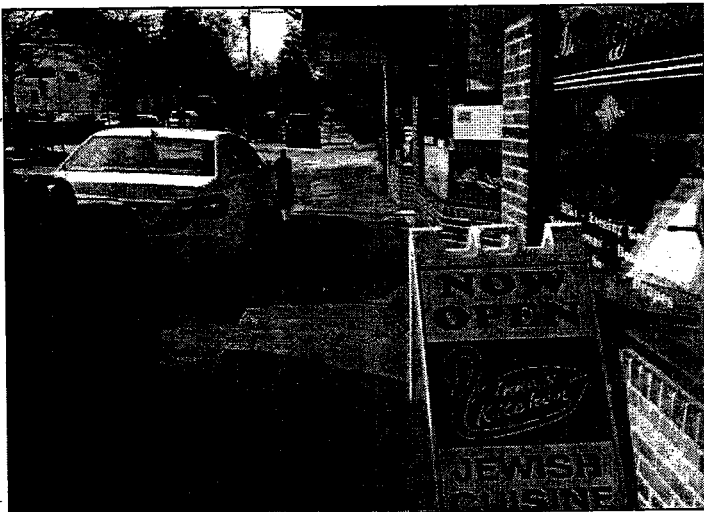
Some sidewalks technically are wide enough for café furniture, part of the sidewalk functions as a curb ramp and/or is located near a driveway making it more challenging for outdoor use.



Sweet Tomatoes Pizza, Newton Centre

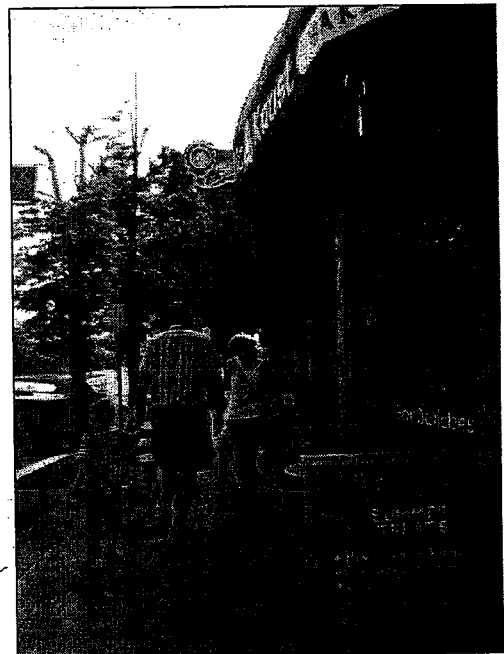


Sandwich Works, Newton Centre – left panel closest to curb is about 4 feet, right panel closest to buildings is about 4.5 feet. Useful sidewalk width depends on location of tree wells.



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.

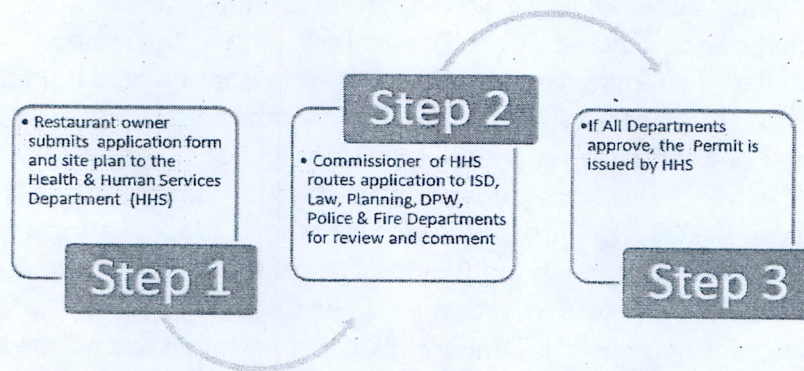
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Will there be a notification process when a sidewalk café permit is proposed?

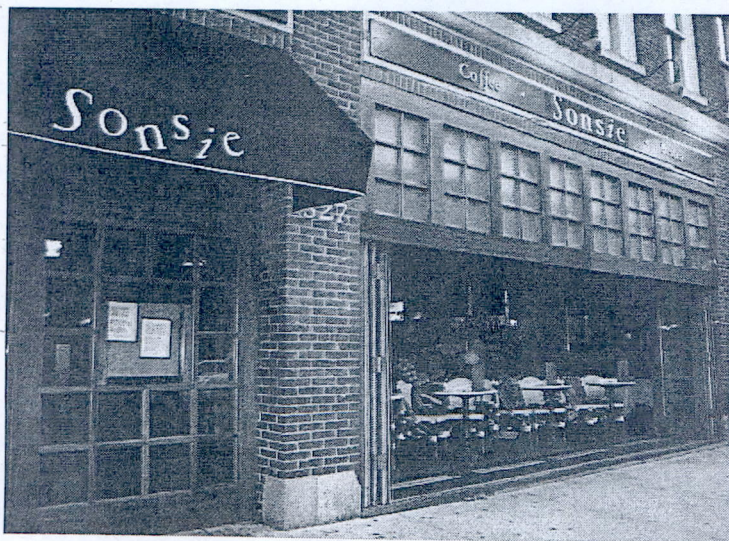
No such process has been proposed. However, a sign could be posted in front of the existing restaurant so anyone passing by could see that it is under consideration and that would provide contact information for those interested in reviewing the application.

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.

Department of Planning and Development

1

Petition 316-12: Department Heads Havens, Zaleznik, Lojek requesting amendments to **Section 26-30. Licenses for café furniture on sidewalks.** streamline the procedure allowing businesses to place café furniture on public sidewalks.

1/14/13



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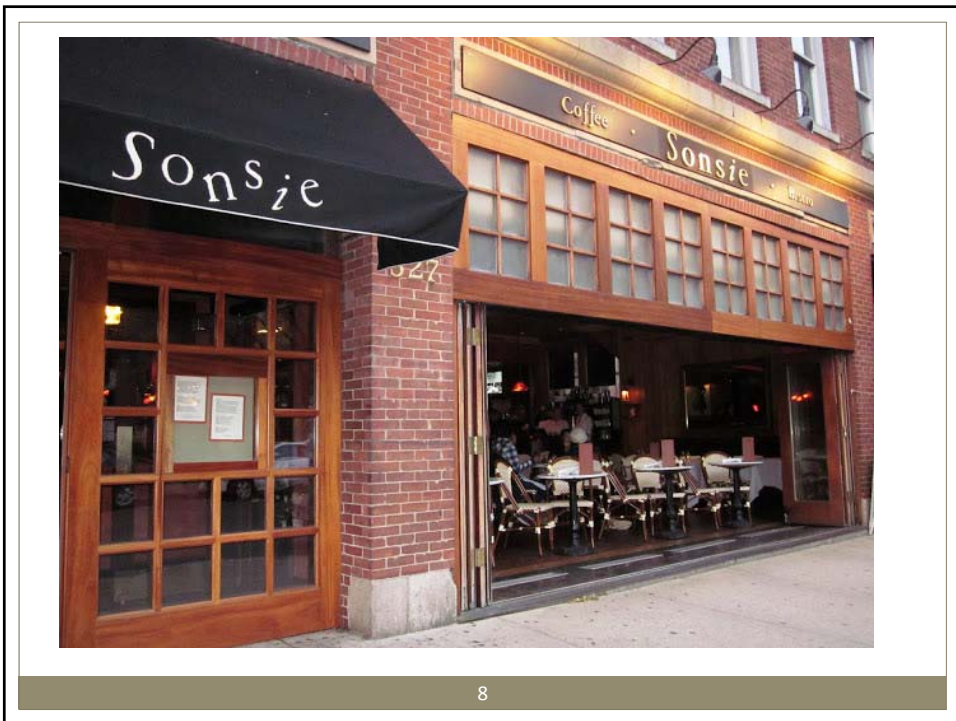


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Planning & Development Department

1/14/13



Planning & Development Department

1/14/13







Planning & Development Department

1/14/13

director of planning and development shall submit an advisory report, including any recommendation of the urban design commission, to the commissioner of inspectional services within three (3) weeks of the application filing date. The fees for sign permits shall be established from time to time by the board of aldermen. Within two (2) months after the erection, alteration or enlargement of any sign, the owner or operator of said sign shall file two (2) eight (8) by ten (10) inch photographs, taken after installation.

(2) The following signs shall be allowed by right without the necessity of a permit therefor:

- a) Signs erected by or on the order of a governmental agency when limited to governmental purposes, and excluding any advertising;
- b) Names of buildings, date of erection, monumental citations and commemorative tablets, when made a permanent and integral part of a building, not to exceed ten (10) square feet;
- c) Banners or flags emblematic of or issued by national, state, or local governments;
- d) Signs indicating the name and address of the occupant of a dwelling, not to exceed one square foot. Where a permitted accessory use or occupation exists, such sign shall not exceed two (2) square feet;
- e) Awning signs in business, limited manufacturing and manufacturing districts;
- f) Window signs, in nonresidential buildings, not to exceed twenty-five (25) percent of the area of the window;
- g) Customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof;

- h) Clocks and thermometers displaying no information other than the time and temperature;
- i) Holiday decorations and lights when in season;
- j) Temporary signs as specified in subsection (h) of this section;
- k) Signs not to exceed two (2) square feet which indicate warnings, hazards, or public conveniences such as "trespass," "beware of dog," or rest room signs.

* (d) *Prohibited signs.* The following signs shall not be permitted, constructed, erected, or maintained:

- (1) Nonaccessory signs;
- (2) Signs constructed, erected, or maintained on the roof of a building or which extend above the roof plate line.
- * (3) Portable signs not permanently affixed, anchored, or secured to the ground or a structure on the lot it occupies, including trailer signs and signs affixed to or painted on a vehicle permanently parked on the premises so as to serve as a sign, but excluding signs affixed to or painted on a vehicle temporarily parked on the premises;
- (4) Window signs which cover more than twenty-five (25) percent of the area of the window;
- (5) Any sign which advertises or calls attention to any products, businesses, or activities which are no longer sold or carried on at any particular premises;
- (6) String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.

(e) *Regulation of signs in residence districts.* No sign shall be erected or maintained in a residence district except as provided in subsection (c)(2) of this section and except as hereinafter expressly provided:

Department of Planning and Development



299-12: DIRECTOR OF PLANNING AND DEVELOPMENT, requesting a discussion regarding a policy-based management plan for parking.

Department of Planning and Development



Parking Management

Prepared for
BOARD OF ALDERMEN
January 2013


Transportation Advisory Group Parking Subcommittee

- Alderman Danberg
- Barbara Darnell
- Andreae Downs
- Jerome Grafe
- Groot Gregory
- Candace Havens

- Alderman Johnson
- Ron Mauri
- Nathan Phillips
- Sean Roche
- Chris Steele

Background




- Many buildings constructed before cars
 - Buildings close together
 - Great pedestrian experience
 - Mixed uses
- Cars multiplied and streets filled
- Parking meters added to aid turnover
- Zoning later required on-site parking
 - Driveways separate buildings
 - Site development restricted
 - SPRAWL



LINCOLN STREET, NEWTON HIGHLANDS, MASSACHUSETTS 1911

The Garden City today

- Suburban
 - 2 cars or more per household
 - Many home sizes and styles, esp. SFRs
 - Driveways, garages, on-site parking
- Village Centers and Corridors
 - Public transportation
 - Mixed uses
 - Amenities within walking distance
 - Greater density and potential for more
 - Surface parking lots
 - Meters on streets



But it's not perfect... yet

- Traffic, Congestion and Pollution
 - More cars per family
 - Regional draw
 - Inadequate or poorly utilized parking
 - Cut-thrus
- Parking Conflicts
 - Business owners and employees
 - Commuters
 - Institutions
 - Residents



Finding Balance



- Urban and suburban lifestyles are both part of the fabric of Newton
- The car is a fact for the foreseeable future
- Can we find the right balance?



One City ~ 13 Villages



• Comprehensive Plan

- Maintain villages as viable economic/community centers
- Protect character and safety of residential neighborhoods
- Support commuters who reduce traffic and congestion
- Make it safe and easy for kids to get to school
- Ensure good relations among residents, businesses, and visitors to Newton
- Create community consciousness about health, public safety and environmental benefits of reduced auto use
- Enable a variety of modes of travel for all ages and abilities
- Sensitivity to land use connection and context



Influences on Village Vitality



- Built environment
- Points of interest/activities
- Pedestrian Amenities
- Safety
- Lighting
- Wayfinding
- Zoning
- Availability of Parking

Existing regulations don't foster vitality



- Parking requirements are high given alternative modes
 - Requirements hard to satisfy
 - Few options available
- Parking for all uses required on-site
- Limited land for satisfying requirement
 - Off-site parking allowed only by special permit
 - Special permit required for waivers
 - ✦ Ad hoc negotiated mitigations
 - Cost of underground parking is deterrent
- Restricts density/smart growth
- Driveways interrupt sidewalks
- No incentives for shared parking

Parking management has been inconsistent

- Decisions have been reactive not proactive
- Limited set of tools
- No overall vision
- Several departments share responsibilities
- Traffic Council
 - Reviews site-specific requests
 - Mix of restrictions that are hard to enforce
- Public Safety and Transportation Committee
 - Reviews area-wide problems
- TAC , TAG and Transportation Team working on coordinating policies and practices

What is a Parking Management Plan?

- Provides guidance for executing policies and best contemporary practices to carry out vision
- Creates order, fairness, consistency, predictability
- Results in more efficient use of parking resources
- Supports the goals of the *Comprehensive Plan*
- Can support and inspire village vitality

How can parking management practices transform our village centers?

- Available parking ensures business activity
 - Promote turnover through pricing to create availability
 - Identify prime spaces and price accordingly
 - Provide cheaper parking farther from activity centers
 - Rethink time limits
 - Regular parkers will seek cheapest spaces
 - Location of spaces is more important than time limits
- Market-based pricing can generate revenues to enhance villages
- Pricing does not hurt business, but lack of availability does



Old Pasadena



- Derelict part of town in 1970s
- Free parking, taken up by employees
- Market-rate meters installed
- Employees vacated spaces ~ customers came
- Money went into pedestrian amenities in immediate area
- Vibrant and lively center of commercial activities and events

Parking regulations for village vitality

- Reduce parking requirement near public transit
 - Update base zones
 - Parking overlay
- Allow more ways to satisfy parking demand
 - On-site parking
 - Off-site parking
 - Shared-car or shared-bike parking
 - Bike spaces in place of % of car spaces
 - In-lieu fees
 - Allow by-right use of same spaces at different times of day
 - Payment instead of providing spaces
 - Money for village improvements
 - Frees land for higher and better use
 - Rewards reduced auto reliance
 - Unbundling
 - Rewards reduced auto reliance
 - TDM Measures to reduce demand
- Increase supply in structures, if needed
- Create individual village plans

Parkers become pedestrians

- Encourage drivers to park once and walk
- Make the walking experience an enjoyable one
 - Seating
 - Shade trees, umbrellas and awnings
 - Clear, safe sidewalks
 - Lighting
 - Interesting businesses and activities
 - Wayfinding

Where are we on the Management Plan?

○

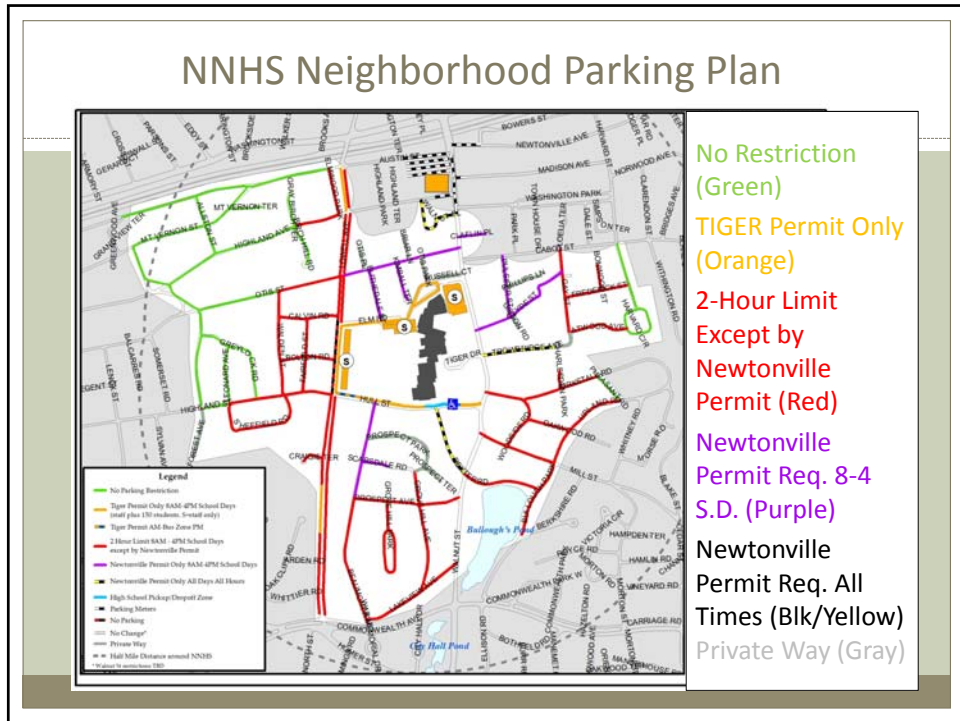
- **Purpose**
 - Create order and provide guidance ~ not prescriptive
 - Support and enhance village vitality by removing barriers to desired changes
- **Policies**
 - Safety if paramount
- **Goals**
 - Make the best use of existing land and space for parking, both public and private
 - Administer in a way that is fair, consistent, transparent, customer-friendly and enforceable
 - Enhance the quality of life and sense of place for all who live, work or visit Newton
 - Reduce reliance on SOVs
 - Create a consciousness about health, economic and social benefits of dynamic mixed-use centers
- **Strategies – may vary from village to village**
 - Identify problems in each village
 - × Data-driven
 - Identify available tools using best technology
 - Match tools to solutions using best practices
- **Action Plan**
 - Set quantifiable goals to maximize use of existing parking in individual villages
 - Prioritize actions needed to achieve them
 - Coordinate with other beautification, mobility, and access improvements
 - Identify future infrastructure improvements, if needed
 - Market it!

What's next?

○

- Complete draft Plan
- Present to ZAP and PS&T
- Adopt Plan and begin implementation
- Continue in Phase 2 of Zoning Reform
- Fine-tune administration
 - Bring together parking functions under centralized management
- Financing mechanisms





- ### Pilots Underway
- **Newton Highlands**
 - Trial of new meters
 - Gathering of data for possible permit program
 - 85% rule for parking – leave 15% for circulating traffic
 - **Newton Centre**
 - Recent changes based on available data
 - ✕ Convert some short-term to long-term spaces
 - ✕ Eliminated 1-hour zones
 - ✕ Added more long-term spaces
 - ✕ Long-term spaces are cheaper and located on perimeter
 - Updated parking study