

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, OCTOBER 22, 2012

7:45 PM
Room 202

ITEMS SCHEDULED FOR DISCUSSION:

- #81-11 ALDERMEN JOHNSON, CROSSLEY, HESS-MAHAN, LAPPIN & DANBERG requesting the Director of Planning & Development and the Chair of the Zoning Reform Scoping Group provide updates on the Scoping Group's Progress. These updates will occur at the frequency determined by the Chair of the Scoping Group and the Chair of the Zoning and Planning Committee. [3/14/2011 @ 11:16PM]
- #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]
- #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]
- #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]

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.

#49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @8:44AM]

#162-11(2) DIRECTOR OF PLANNING & DEVELOPMENT requesting a letter of support from the Board of Aldermen for the Draft *2013-2020 Recreation and Open Space Plan*. [08-06-12 @11:53AM]

Clerk's Note: **The Plan update can be found on the City's website by following this link:**
<http://www.ci.newton.ma.us/gov/planning/lrplan/os/default.asp>

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

Appointment by His Honor the Mayor

#309-12 JESSICA ALPERT, 14 Fuller Avenue, West Newton, appointed as a member of the URBAN DESIGN COMMISSION for a term to expire September 17, 2015 (60 days 12/14/12). [10/03/12 @ 12:17 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

#152-10 ALD. BAKER, FULLER, SCHNIFFER, 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]

#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]

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]

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]

- #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]
- #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]
- #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]
- #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]
- #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.
- #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.
- #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.
- #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.”
- #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.”
- #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]

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

Respectfully Submitted,
Marcia Johnson, Chairman

DRAFT FOR DISCUSSION PURPOSES:

Sec. 5 - xx Keeping of junk, debris, or overgrown vegetation in open view.

(a) *Purpose:* The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, and protecting the City's resources by avoiding the creation and maintenance of nuisances on property which are detrimental to neighboring residents, properties or property values.

(b) *Definitions:*

Junk or debris. Any materials or combination of materials including but not limited to scrap, metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, inoperable machinery, mattresses, tires, and dilapidated or decayed furniture unusable for its intended purpose.

Overgrown vegetation. Weeds, grass, bushes, or other shrubbery which are untrimmed or unkempt and which may harbor or attract rats and vermin, conceal pools of stagnant water, or are otherwise detrimental to neighboring properties or property values.

Substantial amount. A quantity of junk or debris which occupies more than 375 cubic feet in the aggregate on any one lot in a residential district.

Reasonable amount of time. Sixty (60) days.

Public view. Junk, debris, or overgrown vegetation which may be viewed from public property or ways, or from any location within a direct abutter's residence or property.

Commissioner. The commissioner of inspectional services or his designee.

(c) No owner or occupant of any lot in any residential district shall keep in the public view any substantial amount of junk and debris or a condition of overgrown vegetation for more than a reasonable amount of time. Such keeping of junk and debris or overgrown vegetation is declared a public nuisance.

(d) *Enforcement.* The commissioner shall enforce the provisions of this section and shall institute all necessary administrative or legal action to assure compliance.

(e) *Notice of violation.* The commissioner shall issue a written notice of any violation of this section to the owner or occupant of the lot. Said notice shall describe the condition and order that it be remedied within thirty (30) days. If such condition is not remedied within that time, the commissioner may take action to impose the fines described in sec. 5-xx (f) by criminal or civil disposition.

(f) *Penalty.* Any violation of this section shall be penalized by a fine of one hundred dollars (\$100.00). Each day a violation continues shall constitute a separate offense.

- (g) Action under this section shall not bar any separate regulation by or action by any other City department for health, fire safety or any other violations.
- (h) If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered severable from the remaining provisions, which shall remain in full force and effect.



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TIY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: October 19, 2012

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 
James Freas, Chief Planner for Long-Range Planning
Seth Zeren, Chief Zoning Code Official

RE: #49-11 Ald. Johnson, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning and Development and Commissioner of Inspectional Services review with the Zoning and Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments.

MEETING DATE: October 22, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor
John Lojek, Commissioner of Inspectional Services

EXECUTIVE SUMMARY

In February 2011, the Board of Aldermen adopted new residential floor area ratio (FAR) regulations under Ordinance Z-77, which changed both the way gross floor area is calculated and the allowed FAR in each residential zone. FAR is the ratio of building area to lot area and is used to regulate the mass of structures. Ordinance Z-77 sought to change FAR to more accurately reflect existing conditions, to make FAR easier to apply and enforce, and result in new residential construction in keeping with its surroundings. The new regulations became effective on October 15th, 2011, and were preceded and followed by extensive education of the building professional community. When the new rules were adopted, the Committee requested that the Planning and Inspectional Services (ISD) Departments

monitor the effect of the new regulations on residential development in the City and compare the “old” and “new” FAR calculations of actual and proposed construction projects. ISD and the Planning Department last reported back to ZAP on March 12, 2012.

In preparing this report on one year after adoption of the new FAR regulations, staff analyzed building permit data and special permits for FAR reviewed over the past year and spoke with ISD staff and the members of the FAR Working Group, a group that was appointed to advise the Planning Department and the Board of Aldermen in developing the new FAR regulations. Staff found that building permit numbers and revenue have increased over the past year. Out of sixty special permit requests reviewed in the past year, only six required a special permit for residential FAR alone. ISD staff believes that the building community now better understands and is more comfortable with the new rules. Though the members of the FAR working group expressed some specific concerns that they wish to monitor, the group recommends no changes at this time.

The experiences and data collected by the Planning Department over the last year do not show a negative impact on overall development. The number of special permit requests has not significantly increased nor have there been significant changes to residential design. Staff believes that more information should be collected before the Committee considers adjustments to the current rules. The Planning Department recommends ongoing monitoring of residential development, feeding into a comprehensive look at every aspect of residential zoning as part of Zoning Reform Phase 2, beginning in 2013.

ANALYSIS

Planning staff assessed the effect of the new FAR regulations on residential development by analyzing ISD building permit data from the last several years and special permit requests for residential FAR waivers under the new rules. Staff also convened the former members of the FAR Working Group for an informal discussion to get input from practicing building professionals and the other members of the committee on how the rules are affecting design and development. The Planning Department looked at four major questions to judge the effectiveness of the new FAR regulations:

- Have the new regulations affected overall development in Newton and City finances?
- Does the FAR limit permit an appropriate amount of development in each zone?
- Has the new regulation led to an unreasonable burden of special permits, for property owners or for City staff?
- Has the new calculation of gross floor area affected the design of new homes?

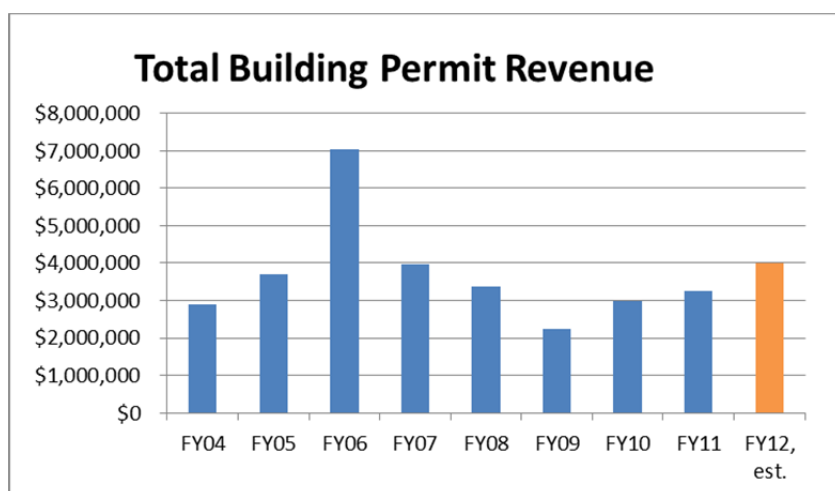
Overall impact on development

At previous working sessions, members of the Committee and the public asked whether the new regulations would cause a decrease in new residential development and that this decline would negatively affect the City’s finances. Staff examined this question by first comparing the number of

building permits issued for new homes and residential renovations¹ issued over the one year since the new FAR regulation went into effect (Oct. 15, 2011 to Oct. 15, 2012) and the previous year (Oct. 15, 2010 to Oct. 15, 2011).

Comparison of years before and after change	2010-2011	2011-2012
Total number of building permits	2,790	2,816
Total number of new home permits	73	82

The number of building permits issued for renovations and new construction has increased in the year since the new FAR regulations went into effect from the year prior. The recovering real estate market in the Boston area is likely the main driver of this trend. To understand the potential fiscal impacts of the new regulation, staff next looked at the total revenue from permit fees over the past eight years.²



The chart shows no particular positive or negative impact on City revenues from the new FAR regulations which were adopted in late 2011; rather the change in permit revenues is likely driven by fluctuations in the real estate market and overall economy. The former members of the FAR Working Group provided anecdotal evidence that the new FAR regulations have slowed or halted some residential renovations or home sales, but also believe that the main driver of changes in construction, renovation, and home values has been the market.

Amount of development permitted

The architects from the FAR Working Group expressed concern, however, that as the economy recovers demand for larger homes will increase and that if the FAR limits are too low, the regulation could negatively impact development and property values in Newton. This concern revolves around whether the limit number is correct, rather than the updated method of calculating gross floor area.

¹ Includes both major additions and smaller interior/exterior work that does not increase the gross floor area of the house; the City’s permit records do not distinguish.

² The total revenue from FY12 has not been finalized so an estimated figure based on permit receipts over the past 12 calendar months has been used.

The architects and the other former members of the FAR Working Group were divided in their views and concerns about the effect of the new rules. The architects on the group generally felt that the new FAR limits were too low by .02 to .05, while the non-architect members of the group felt that the FAR limits were perhaps having the desired effect of making FAR one of the constraints on residential development and limiting the construction of over-sized houses. ISD staff have also expressed concern that the FAR numbers permitted are lower than those originally proposed by the working group and that those lower numbers have lowered development potential on some lots compared to that allowed under the previous temporary bonus. At this point, there is insufficient information to distinguish the effects of the FAR regulations from overall market trends. The FAR regulations were crafted to address a host of issues, including overbuilding on certain sites, equity in development opportunities, and the protection of neighborhood character. In balancing these goals, the amount of development to allow is a policy decision.

Special Permits for FAR

Staff next looked at those residential developments which have applied for special permits seeking relief from FAR regulations. Since October 15, 2011, a total of approximately 60 residential and commercial projects have submitted for zoning review in preparation for a special permit application. Of these, 14 applications concerned residential FAR waivers. Of these 14, eight required some kind of additional zoning relief, typically a special permit for the extension of a nonconforming structure, and the other six received special permits for FAR alone. The following table summarizes these findings and compares the number of special permits to the overall number of new homes permitted in the last year.

Comparison of special permits (SP) for FAR (Oct 15, 2011 to Oct 15, 2012)	Number	Percent of Total
Approx. number of special permits	60	-
Residential SP for FAR	14	23.3%
Residential SP for FAR only	6	10%
Permits for new home construction	82	-
New Residential SP for FAR	3	3.7%
New Residential SP for FAR only	2	2.4%

Attachment B includes detailed information about the fourteen projects that requested relief from residential FAR over the past year. Generally speaking, projects requesting a special permit for FAR fall into one or more of the following categories:

- Additions to existing nonconforming homes (on small lots or large existing homes, or both)
- Large additions (greater than 1,000 square feet) to existing, conforming homes
- Large new home (4,000 – 7,000 square feet) exceeding allowed FAR

The special permit provides the opportunity to review potential development to ensure that it does not detract from the neighborhood character and scale and limits direct impacts on abutters. The three categories above represent instances where new development may create potential impacts

(shading, blocked views, alterations of neighborhood character) that merit further review. Increasing the allowed FAR might eliminate some special permits that are very close to the limit, but with any threshold there will always be some projects just over the line. Given the approximately 25,000 single-family houses in Newton and the thousands of renovations and 82 new homes permitted last year, the overall impact of the new FAR rules on the special permit process has been fairly minimal.

The architects from the FAR Working Group noted, however, that uncertainty about the time, conditions, and likelihood of obtaining a special permit is a major difficulty in advising clients and is a barrier to some development. The Working Group agreed that further efforts should be made to reduce uncertainty in pursuing a FAR special permit, including providing more information about previously-approved projects and developing a clear body of precedent. The members expressed support for the changes that have been made in the land use process to streamline special permit review, but would like to see further efforts, including developing capacity on another review body that could take on some or all special permits for FAR to help increase certainty and further streamline review.

Effect on Building Design

To understand the effects of the new FAR regulations on building design, staff consulted with ISD staff and the former members of the FAR Working Group. ISD staff confirmed that the current rules are working and understood by most design professionals now. The architects from the FAR working group expressed concern that the requirement to include third floor attic space could create a pressure for flatter-roofed homes. Though there is currently too little evidence to mark a trend, ISD staff shares this concern and suggests that they have seen a small tendency toward lower-pitched roofs driven in part by attempting to comply with FAR regulations. The architects noted that the real estate market is evolving, including a growing preference for two-story over three-story living, while still keeping steeply pitched roofs, which is creating a new constraint on home size.

The group agreed that further amendments to the FAR limits and the method of calculating gross floor area could be merited in the future. However, the group also agreed that more information should be collected before making any changes. The first new homes or additions permitted under the new FAR rules (by right or by special permit) have yet to be completed, making it hard to judge the true visual impact of the regulations.

Ultimately, there are limits to what FAR alone can accomplish in shaping design in residential neighborhoods. As a ratio of building size to lot size, FAR can only control neighborhood scale where lots are of similar sizes. As Attachment C illustrates, there are many areas of the City where roughly similar homes sit on lots of widely varying size. Furthermore, while there is one FAR limit for the SR2 zone, the SR2 zone encompasses widely differing neighborhoods (from Oak Hill Park to Waban), with differing lot sizes, grading, and architectural style. As the FAR Working Group Final Report from May, 2010 stated, “existing residential zoning districts are too blunt to account for the range of neighborhood character.”

RECOMMENDATION

The Planning Department believes that the new GFA calculations and FAR limits are working well and are now understood by the development community. It is difficult to judge the full effects of the regulations using only a single year of permit information, particularly when projects under the new FAR have not been completed. Therefore, the Planning Department recommends at least one more year of monitoring trends in residential development and design.

A comprehensive examination and revision of the regulations concerning residential neighborhoods will be a core part of Zoning Reform, Phase 2, including consideration of dimensional controls like setbacks and lot coverage, increasing the number and specificity of zoning districts to better correspond with neighborhoods, the potential for form-based design guidelines, and the special permit review process. The information collected over a continuing monitoring period would provide valuable information in helping shape future residential zoning regulations to achieve the City's many goals of preserving neighborhood character and permitting reasonable development.

The Planning Department recommends that no action is necessary on #49-11. Staff believes that collecting additional data to support a comprehensive approach to residential zoning as part of Zoning Reform Phase 2 would be more effective than attempting to amend the current FAR rules with the currently available data. Staff will develop metrics to monitor new residential development and renovation in preparation for Zoning Reform Phase 2, and provide updates as part of that process.

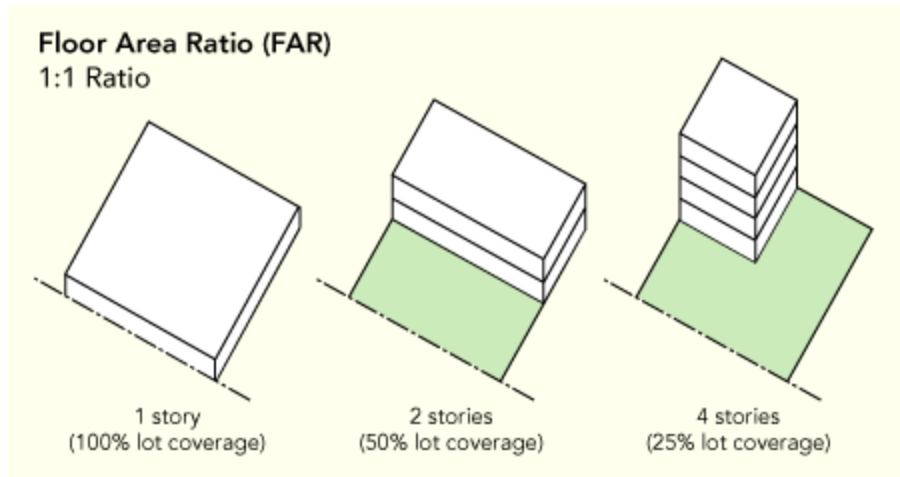
ATTACHMENT A: Background on FAR amendments and the FAR Working Group

ATTACHMENT B: Summary of fourteen zoning reviews performed for special permits applications between 10/15/11 and 10/15/12

ATTACHMENT C: Example area plan showing similarly sized homes on lots of widely differing areas

BACKGROUND

Floor area ratio (FAR) is the ratio of the gross floor area of all structures on a lot and the total lot area. The purpose of FAR is to measure and regulate the above-ground bulk or mass of structures. FAR is distinct from, but complementary to other dimensional controls such as setbacks, lot coverage, and maximum height.



The Goal of FAR Reform

The FAR Working Group stated that their goals were to:

- 1) Ensure a fairer application of FAR limits by more clearly defining what is included in the calculations of gross floor area and by eliminating exemptions to gross floor area; and
- 2) Ensure a fairer distribution of massing to ensure that smaller lots have some opportunities for minor expansions that would be compatible with the existing character within their neighborhoods.

History of the FAR Working Group³

FAR limits were added to the dimensional controls in residential zoning districts in Newton in 1997 as a response to concerns about the demolition of smaller homes and their replacement with larger-scale dwellings that many felt were out of character with their surroundings. At the time FAR was adopted, FAR limits were made applicable to new residential construction and to residential construction when over 50% of an existing house was demolished.

In the years after the adoption of residential FAR limits, many public officials and citizens raised concerns that Newton's FAR limits were easily and lawfully exceeded when homeowners and developers took advantage of the numerous exemptions from FAR limits found in the definition of gross floor area and in what was informally referred to as the "50% demo provision" to maximize their development potential. The latter provision (previously located in Sec. 30-15, Table 1, Footnote 7) was particularly problematic: as long as less than 50% of an existing home was demolished, there was no FAR limit on what could then be built on the site, other than limits imposed by other dimensional

³ Excerpted from the FAR Working Group Final Report; May 20, 2010

controls. Though intended to facilitate the creation of small additions, such as mudrooms or bathrooms, in practice it allowed very large expansions of existing homes, often to sizes that significantly exceeded FAR limits for new construction in the zoning district.

In March 2009, the Board passed Ordinance Z-44, which deleted Footnote 7, including the 50% demo provision, in its entirety, thereby making FAR limits applicable to all residential development, including expansions of existing dwellings. As a result of this change, completely new homes as well as renovations of or additions to existing homes both have to comply with FAR limits.

In the wake of the adoption of Z-44, a number of homeowners who were planning to make small additions using the 50% demo provision learned that they would be unable to proceed without a special permit because their homes either already exceeded FAR limits or would exceed them with their proposed additions. To aid homeowners in these situations, the Board then passed Ord. Z-51, which grants an FAR bonus of .05 to .07 for qualifying residential properties; this provision was extended till October 15, 2011. In June of 2009, the Board also passed a resolution requesting that the Director of Planning and Development conduct a study of residential FAR in Newton to advise on how the zoning ordinance might be amended with regard to FAR limits.

As a result of this resolution, the "FAR Working Group" was appointed in June 2009 with the goals of assessing existing FAR limits in residential neighborhoods of the City and making recommendations for amending the zoning ordinance to ensure that FAR regulations more accurately reflect current usage and ensure that new construction is in keeping with surrounding structures and the Newton Comprehensive Plan. Members of the Working Group were appointed by the President of the Board of Aldermen and the Mayor.

ATTACHMENT B

ATTACHMENT B: Special Permit Projects (Oct 15, 2011 to Oct 15, 2012)

Date	Address	Zone	Waivers	Size of Lot (sq. ft.)	Allowed FAR	Bonus	Existing FAR	Proposed FAR	Existing (sq. ft.)	Size of Addition (sq. ft.)	Number of sq. ft. over allowed FAR	SP under old rule	SP under interim rule	Notes
Oct-11	56 Waldorf Road	MR1	FAR, ext NC	5,403	0.57	No	0.36	0.60	1,945	1,297	162.09	Yes	Yes	Large two-story addition on a small lot
Nov-11	14 Loring Street	SR2	FAR	8,500	0.40	No	0.48	0.54	4,080	510	1,190.00	Yes	Yes	Replace existing screened porch with large home office on existing large house, modest lot
Nov-11	143 Lincoln Street	SR2	FAR, change NC	11,775	0.36	No	0.24	0.42	2,826	2,120	706.50	Yes	Yes	Doubling the size of a modest two-family to create two attached dwellings
Dec-11	39-41 Clarendon Street	MR1	FAR	11,130	0.50	Yes	0.55	0.58	6,122	334	890.40	No	Yes	Enclose existing porches on a two large attached dwellings, built under the 50% demo rule in 2006
Dec-11	43 Hillside Avenue	SR2	FAR, ext NC	8,365	0.41	No	0.54	0.66	4,517	1,004	2,091.25	Yes	Yes	3.5-story addition to large victorian on a lot sloping to the rear
Jan-12	1841 Commonwealth Avenue	SR2	FAR, ext NC	8,475	0.40	No	0.34	0.48	2,882	1,187	678.00	Yes	Yes	Two-story addition and one car garage replacing existing two car garage
Mar-12	111 Pleasant Street	SR2	FAR, ext NC	5,628	0.45	No	0.72	0.76	4,052	225	1,744.68	Yes	Yes	Enclose rear porches on nonconforming two-family and structure on small lot
Mar-12	112 Exeter Street**	SR1	FAR, 3rd story	16,080	0.32	Yes	0.29	0.36	4,663	1,126	643.20	Yes	Yes	Submitted under pre-Oct 15 rules, large split level ranch looking for 3rd story addition
Mar-12	112-116 Dedham Stree #4 (new)	SR3	FAR, rear lot sub	15,033	0.24	No	n/a	0.36	n/a	5,412	1,803.96	Yes	Yes	Large home on rear lot subdivision with FAR waiver under Section 30-15, Table 4 for rear lots
Apr-12	150 Countryside Road (new)	SR1	FAR	25,000	0.26	No	n/a	0.28	n/a	7,000	500.00	No	No	Large new 2.5-story home with some exposed basement and enclosed porches
Apr-12	35 Norwood Avenue (new)	SR2	FAR	9,573	0.39	No	n/a	0.45	n/a	4,308	574.38	Yes	Yes	Large new 2.5 story home on modest lot with some exposed basement
Apr-12	258 Nevada Street	MR1	FAR, ext NC	11,122	0.48	No	0.31	0.57	3,448	2,892	1,000.98	Yes	Yes	Conversion of two-family to attached dwellings, new addition nearly doubling size of structure
Jun-12	97 Hillside Avenue	SR2	FAR	12,551	0.35	No	0.48	0.52	6,024	502	2,133.67	No	Yes	Demolition of existing garage, new attached garage on large 4-story victorian
Aug-12	54 Oxford Road	SR3	FAR	7,681	0.48	Yes	0.71	0.73	5,454	154	1,920.25	No	Yes	Large nonconforming house on modest lot making small addition

** Submitted under the pre-Oct 15 old FAR rules; needed a special permit either way, but smaller waiver required under old rules

Base Map

City of Newton,
Massachusetts

ATTACHMENT C

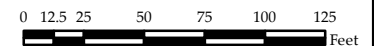
Legend

- Street Names
- Building Outlines
- Surface Water
- Property Boundaries

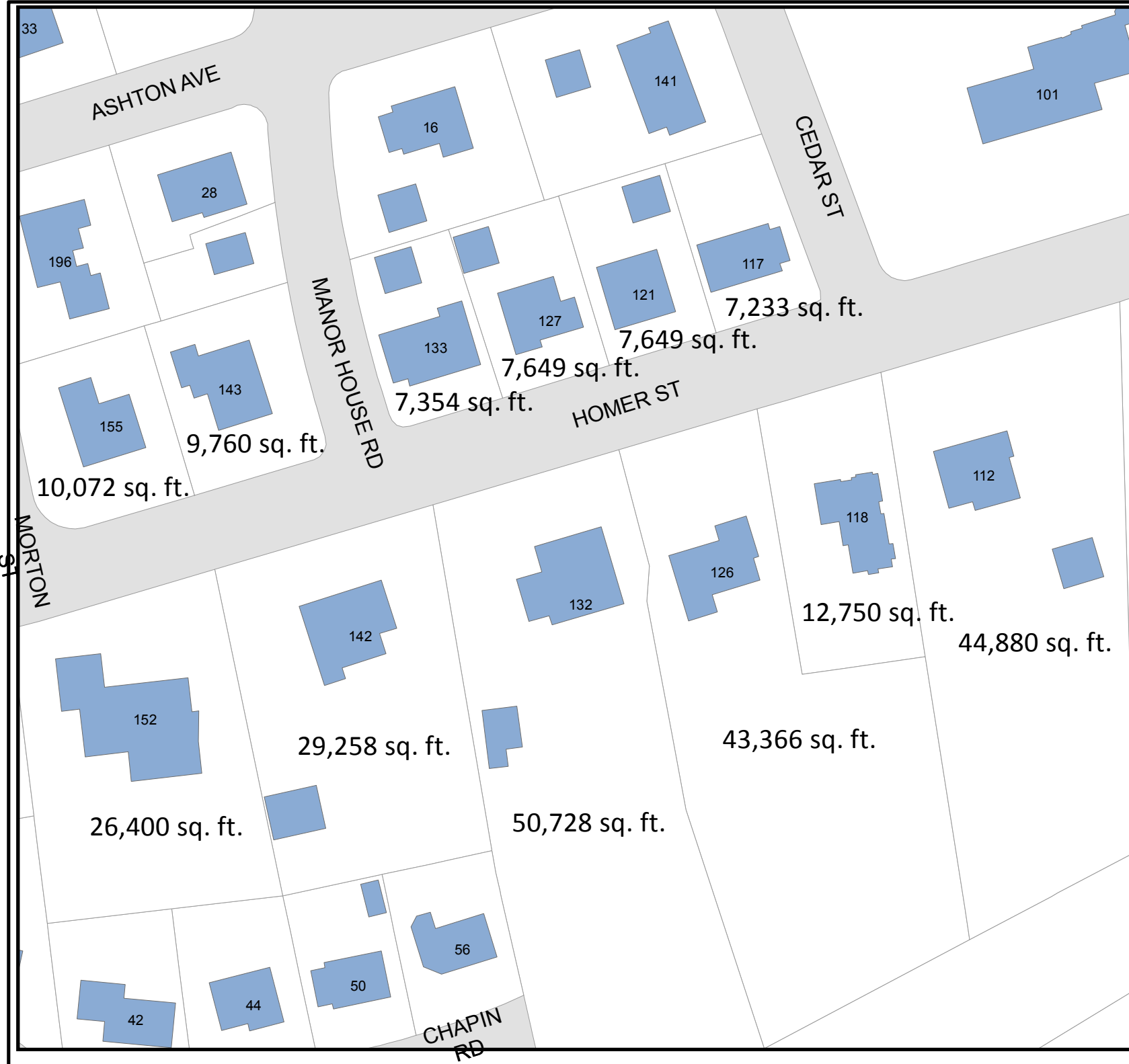


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: October 15, 2012





Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459


Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: October 19, 2012

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

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner for Long Range Planning 

RE: # 162-11(2): The Director of Planning and Development requesting a letter of support for the City of Newton Recreation and Open Space Plan Update, which may be viewed online at <http://www.newtonma.gov/gov/planning/lrplan/os/>.

MEETING DATE: Working Session on October 22, 2012

CC: Board of Aldermen
Donnalyn Kahn, City Solicitor

The City of Newton is nearing completion in the process of updating its *Recreation and Open Space Plan Update*. The *Plan Update* expresses our collective vision for the City's open space and sets out priorities to enhance and protect our natural and recreational resources. An updated plan is also necessary to make the City eligible to apply for certain State funding programs. At this time, City staff is requesting a letter of support (attached) from the Board of Aldermen. If the Board agrees, this will be included as a part of the *Plan* for final submittal of the *Plan* to the Metropolitan Area Planning Council (MAPC) for comment. Following MAPC's review, the *Plan* will be submitted to the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services for approval.

Following conclusion of an extended public comment period, the Recreation/Open Space Plan Advisory Committee reviewed the feedback and incorporated changes in the current document version. The Planning and Development Board held a public hearing on the *Draft Recreation and Open Space Plan Update* and, on August 6, 2012, approved the *Plan Update*. Materials relevant to the planning process and a copy of the final draft plan may be viewed at <http://www.newtonma.gov/gov/planning/lrplan/os/>.

ATTACHMENT A: Draft letter of Support for the *City of Newton Recreation and Open Space Plan Update* from the Board of Aldermen, dated October 22, 2012

Draft letter of support for Recreation/Open Space Plan

Candace Havens
Director of Planning and Development
City Hall
1000 Commonwealth Ave.
Newton, MA 02459

Dear Candace:

The Board of Aldermen is pleased to support the Recreation and Open Space for 2013-2019 Plan Update for submission to the Massachusetts Executive Office of Energy and Environmental Affairs. We understand that acceptance of the Plan will enable the City to apply for several Recreation and Open Space grants from the Commonwealth.

We appreciate that your Department conducted an extensive outreach plan to seek input from as many interested citizens and groups as possible and that such input included a public workshop, a public survey, input from neighborhoods and others throughout the advisory committee work, a public hearing with an extended comment period. The planning process was guided by a broad-based advisory committee with representatives from a range of natural resource conservation, environmental, and recreation organizations, along with regional and City agencies.

The results of the broad citizen participation include an increased emphasis on maintaining the City's recreation and open spaces including the City's street trees. The Plan Update also supports new initiatives like the Upper Falls Greenway, access to it from the Charles River Pathway, the restoration of the Quinobequin Road trails, the use of the Cochituate Aqueduct Land and the Sudbury Aqueduct Land to establish new loop trails, and the establishment of new pathways across the Charles River in the Lower Falls/Auburndale area. We are pleased to see that the Plan Update encourages the establishment of new Friends groups to help carry out the purposes of the Plan Update in partnership with the City.

Congratulations on the completion of this Plan Update. We look forward to working with you and your Department on its implementation.

Sincerely,

Scott F. Lennon
President of the Board of Aldermen