

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY FEBRUARY 14, 2011

Present: Ald. Johnson (Chairman), Yates, Shapiro, Baker, Lappin, Sangiolo, Lennon, Swiston

Also Present: Ald. Danberg

City Staff: Brian Lever (Senior Preservation Planner), Seth Zeren (Chief Zoning Code Official), Candace Havens (Director of Planning and Development), Jen Molinsky (Interim Chief Planner for Long term Planning), Anne Phelps (Senior Environmental Planner), David Tannozzini (Energy Officer, Public Buildings Department), Stephanie Gilman (Commissioner, Public Buildings), Rebecca Smith (Committee Clerk)

Historical Commission: Donald Lang (Chair), David Morton, Zach Blake

Newton Citizen's Commission on Energy: Eric Olson (Chair), Lawrence Kaufman, Ira Krepchin, Jonathan Kantar, Ed Craddock, George Nesgos

#122-09      ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.

**ACTION:**      **HELD 8-0**

**NOTE:**      Armando Rossi, 3 Winona street, Auburndale, joined the Committee to discuss this item. Mr. Rossi takes pride in Newton and its aesthetic quality. He does his part to beautify the city, mainly by planting trees. He came to the Committee this evening out of concern for the abundance of signs that are hung throughout the City and never removed. The Committee assured him that political signage must be removed within a certain period of time after an election; if they aren't removed they can be reported to the Election Commission who will handle their removal with the aid of the Department of Public Works. In regard to non-political signs or flyers: if the date of the flyer has passed, members of the public are welcome to take them down; if flyers are on City-owned polls and the dates have passed the resident can also call DPW to remove them.

Barbara Thompson, 286 Melrose Street, Auburndale, attended the meeting in support of Mr. Rossi's item. She too is concerned with the aesthetic appearance of Newton and sees that signage is a real issue. She understands that there are already ordinances in place that address this issue so the question is more so about how we enforce the ordinance. The Committee recognized that enforcement is going to continue to be complaint driven, but agreed that these signs can be unsightly; they believe that the best way to rectify the situation is to increase citizen awareness about proper procedure for sign posting and removal. One way this could be done is through an informational piece to the TAB from Citizen Assistance Officer, Aaron Goldman. Another method, just for election signage, is for the Election Commission to include flyers in the nomination packets handed out to candidates which explains when signage should be hung and when it needs to be taken down.

Pres. Lennon suggested that Armando attend a meeting of the Urban Design and Beautification Committee to discuss this further. Ald. Sangiolo and Candace Havens, Director of Planning and Development, will ensure that he receives an invite to their next meeting. The Committee voted unanimously to hold this item so that they may follow up on it at a later date.

#92-10(2) ZONING & PLANNING COMMITTEE proposing a RESOLUTION to His Honor the Mayor providing selection criteria guidance for membership on the *Planning & Development Board* so that the level of expertise in related areas or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its service to the City. [9-13-10@11:41AM]

**ACTION:** **APPROVED 8-0**

**NOTE:** The Committee discussed items 92-10(2) and 93-10(2) together. This was a continuation of the last meeting at which these items were discussed. The language of the membership descriptions changed slightly for the P&D Board since that meeting and were tweaked slightly during this meeting. The final drafts of these descriptions are attached to this report. These are not requirements for membership, but rather guidelines/suggestions to be used when selecting people for the two Boards. Ald. Lappin moved to approved approval of both items. The Committee voted unanimously in favor of that motion.

#93-10(2) ZONING & PLANNING COMMITTEE proposing a RESOLUTION to His Honor the Mayor providing selection criteria guidance for membership on the *Zoning Board of Appeals* so that the level of expertise in related areas or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its service to the City. [9/13/10 @11:41AM]

**ACTION:** **APPROVED 8-0**

**NOTE:** See 92-10(2) summary.

#235-10 ALD. BAKER & YATES on behalf of the Newton Historical Commission requesting updates to §22-50, **Demolition of historically significant buildings or structures.**, to minimize inconveniences to homeowners proposing modest changes and to enhance protections for historic structures proposed for demolition, with specific amendments designed to (B) establish a minimum period of delay for full demolition if the structure is found to be preferably preserved; and (C) extend the existing period of delay, as has occurred in other communities, for structures proposed for full demolition if the structure is found to be preferably preserved. [8/30/10 @3:19PM]

**ACTION:** **SECTION (B), APPROVED 7-0-1 (Lennon abstaining)**  
**SECTION (C), APPROVED 6-2 (Lennon and Lappin opposed)**

**NOTE:** Brian Lever gave a presentation on the demo delay to review the proposed changes. The intent of section (B) is to create a four month initial delay so that a home owner cannot submit a denied request a second time without being required to give it more thought. The intent of section (C) is to lengthen the delay period of 12 months to 18 months. Both sections (B) and (C) apply only to homes which are found to be preferably preserved by the Historical Commission and which are proposed to be fully demolished by the homeowner. If after the delay is in place the homeowner devises another plan which doesn't involve demolition, the homeowner is permitted to come before the Commission even if they are still within the four month initial delay. The purpose of the demo delay is to preserve historical homes which are an asset to our social history and to the aesthetic quality of our neighborhoods. Presently, only 25 homes remain in this City from the Colonial period. The demo delay would assist in preserving such homes by requiring a wait time which would provide the opportunity to have a conversation about the proposal. This often causes the homeowner to reconsider for a variety of reasons and, in turn, the structure is preserved.

Donald Lang, 999 Chestnut Street, Chair of the Historical Commission joined to table to give his opinion on the delay. He cited different instances in which neighborhoods have suffered the consequences of developers purchasing homes, demolishing them and constructing inexpensive and unsightly buildings in their place. He sees the implementation of the initial four month delay, as well as the extension of the full delay from 12 months to 18 months, as a likely way to not only have the opportunity to discuss plans further with homeowners but to discourage the interest of developers who may not want to wait out the 18 months. He believes that the extending the delay would surely do some good for saving preferably preserved buildings.

Members of the historical Commission David Morton and Zach Blake spoke on behalf of the proposal. Mr. Morton, 148 Edinborough Street, stressed that the delay applies to a very small number of homes within the City; because of that fact, imposing a delay to such few properties isn't so onerous of a policy to impose. Mr. Blake, 66 Eddy Street, recognizes the benefit of this proposal since it opens a dialogue with the homeowner. If the home isn't sufficient for the owners, Mr. Blake wants to work with them to find a solution to the issues. He believes that there is, generally speaking, that a solution to any problem can be found within the existing structure. Mr. Blake shared that this is a reasonable tool to protect the buildings that add so much character to this city.

Ald. Swiston raised concern about the fact that the delay is attached to the property and not with the homeowner. This is an issue because it allows people to sell a home to another homeowner partially through the term of the delay. If that homeowner wants to demolish the structure too, they have the advantage of waiting half the intended time. She believes that should the house be sold, the demo delay should start again with the new owner. Members of the Committee acknowledged that this is a valid concern but would need to be docketed as a separate item.

Pres. Lennon voiced his concern over the 18 month delay stating that he still sees it as a burden to homeowners, for that reason he cannot support Section (C)

Alderman Baker moved approval of both sections which was carried by the Committee.

#253-10 ALD. YATES proposing a RESOLUTION to the Conservation Commission and the Mayor's Advisory Committee on Renewable Energy requesting that they investigate the possibility of establishing a Brightfield Solar Energy Array on the Flowed Meadow site similar to the one in Brockton. [09/07/10 @ 8:31pm]

**ACTION:** **NO ACTION NECESSARY 8-0**

**NOTE:** David Tannozzini, Energy Officer for the Public Buildings Department explained the different elements of this project to the Committee. The proposal is to install solar panels on the capped landfill known as "Flowed Meadow". He stated that for a limited time NSTAR is offering to transfer the energy that's produced by solar panels like that over to a city building at no charge. A vendor would lease the land from the City and the City would enter into a long term agreement to purchase the electricity from the vendor. After a number of years the equipment would be removed or transferred to the City's ownership. The only remaining question now is which vendor the City will select.

Another benefit of this plan is that the City would be able to purchase electricity at the current, very low, rate and lock in that price for up to 20 years (state law prohibits an agreement longer than that). The only potential downside to this is if the price of electricity drops. Given the very low rate that is at now, it is likely that the rate will only rise in the future.

The proposal calls for five million dollars worth of solar panels on 6 properties: Newton North, Newton South, Countryside, Bowen, The Lower Falls Community Center and Angino Farm. The energy from the solar panels would apply to 5% of the electricity used in city government operations. The lifespan of the solar panels is 30-40 years.

The Committee spoke in favor of this project. They believe it is a wonderful idea with essentially no downside. Ald Swiston raised a question of whether this is a zoning issue; Ald. Yates assured her that there is no zoning problem here since it is public land zoned for public use creating energy to be used for public buildings.

Because the Mayor has already started working on this project, a Resolution is not needed and the Committee moved a vote of NAN. To show their formal support, Ald. Yates suggested that the Committee docket a parens 2 of this item to read as follows: "Zoning and Planning Committee supporting the establishment of a Brightfield Solar Array, subject to neighborhood input, on the Flowed Meadow site". The Committee voted in favor of this request. It is important to the Committee that the neighborhoods are consulted; they recognized that the residents could potentially raise concerns that they themselves hadn't thought about. The Committee then unanimously voted to NAN this item.

#333-97(2) ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM]

**ACTION:** **NO ACTION NECESSARY 8-0**



**NOTE:** Ald. Yates moved a vote of No Action Necessary for this item. He believes it is a good idea but recognizes that it isn't urgent at this point in time and can be dealt with in the future. The motion to NAN was carried unanimously.

#142-09(4) **INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT** requesting discussion of findings of Floor Area Ratio Working Group and consideration of recommended revisions to Chapter 30 regarding FAR limits tied to lot sizes and definitions of "gross floor area", "carport", "mass below first story", "porch", "enclosed porch", and "floor area ratio" as well as phasing of ongoing changes. [05/11/10 @ 7:07 PM]

**ACTION:** **NO ACTION NECESSARY 8-0**

**NOTE:** The Committee moved a vote of No Action Necessary for this item as it is a discussion item which is no longer relevant given that the Committee created a new action item for FAR that has since been reported out to the full Board. The motion to NAN was carried unanimously.

Respectfully Submitted,

Marcia Johnson, Chairman



11 FEB 15 P 12:33

CITY CLERK  
NEWTON, MA. 02159

**PLANNING & DEVELOPMENT BOARD**

**Works Closely with**

The Mayor, Planning & Development Director, Commissioner, Inspectional Services, City Engineer, and Law Department

**Interacts with**

The Land Use Committee and the Zoning and Planning Committee of the Board of Aldermen

**Key Accountabilities**

- Reviews and votes on petitions involving [special permits] rezoning and amendments to the zoning ordinances.
- Reviews and approves subdivision plans
- Oversees and makes recommendations to the Mayor on the Housing and Community Development Program
- Serves as the advisory Board to the Newton Community Development Authority, which is the entity that issues loans for the Housing and Community Development Program
- Considers and makes recommendations on proposed historic landmark decisions, scenic road regulations, Comprehensive Plan, proposals for acquisition of real property, and considers requests for waivers of the light ordinance.
- Takes initiative to become educated on items before Zoning & Planning that will require Planning & Development Board review and approval.

**Desired Membership**

Membership of The Planning & Development Board should, if possible, consist of a mix of the following areas of experience and expertise. In addition members should, if possible, represent those who own/rent their homes and a cross-section of the City of Newton's eight wards.

**Desired Experience/Expertise:**

- Real Estate/Land Use Law
- City Planning, including Traffic Planning
- Community Development
- Human Services
- Affordable Housing
- Local Business Owner
- Service on neighborhood, or community advisory board/committee

**Desired Competencies**

- Integrity & trust
- Ability to deal with paradox & possessing sound judgment
- Interpersonal awareness
- Sense of urgency & achievement
- Political Savvy
- Drive for improvement in public services



11 FEB 15 P 12: 33  
CITY CLERK  
NEWTON, MA. 02159

**ZONING BOARD OF APPEALS**

**Works Closely with**

The Planning & Development Director, Commissioner of Inspectional Services, and Law Department

**Interacts with**

The City Clerk and Planning and Development Board

**Key Accountabilities**

Using knowledge of/expertise in the technical aspects of zoning law, regulations, and construction/site plans:

- Hears and acts upon technical requests for dimensional and use variances under the provisions of Chapter 40A, as well as Comprehensive Permits under the provisions of Chapter 40B.
- Hears and acts on appeals of technical decisions made by the Commissioner of Inspectional Services actions with regard to building permits and with respect to [on] compliance with the City's zoning ordinances.

**Desired Membership**

Membership of the Zoning Board of Appeals should, if possible, consist of a mix of the following areas of experience and expertise. In addition members should, if possible, represent those who own/rent their homes and a cross-section of the City of Newton's eight wards.

**Desired Experience/Expertise:**

- Zoning/Land Use Law
- Building/Construction
- Design Professional (architecture, engineering, landscape design, or similar)
- Real Estate Broker/Development
- Service on neighborhood, or community advisory board/committee

**Desired Competencies**

- Integrity & trust
- Ability to deal with paradox & possessing sound judgment
- Interpersonal awareness
- Sense of urgency & achievement
- Political Savvy
- Drive for improvement in public services

---

Effective Day-Month-Year

# Demolition Delay

- Throughout 2009 and 2010 the Historical Commission and the Planning Department studied the effectiveness of the Demolition Delay in preserving historic buildings and structures in Newton.

# Demolition Delay

- Purpose:

- Assure the preservation and enhancement of the City of Newton's historical and cultural heritage by preserving rehabilitating, or restoring whenever possible buildings or structures which have distinctive architectural features or historical associations that contribute to the historic fabric of City.

# Demolition Delay

- Demolition Review Filing Criteria
  - (1) Building or structure must be 50 or more years old
  - (2) Project must involve at minimum; demolition, altering, or covering 25% (amended to 50%) of façade or roof (partial demolition) or the full demolition of a building or structure.

# Demolition Review Process

- (1) Filing threshold (% of façade, 50 years) met or not, if not building permit issued.
- (2) Historically significant or not (determination can be made by staff or Commission)
  - If Not Historically Significant, permit issued If Historic, staff and/or Commission review required.
  - Determination must be made within 15 days of receipt of application.

# Demolition Review Process

- (3) Staff review for historic buildings partial demo only, If approved, permit issued
  - ▣ If not approved, Commission reviews.
- (4) Commission review; property is Preferably Preserved (PP) (on 1 year delay) or Not PP.
  - ▣ Determination must be made within 45 days of filing.
- (5) If PP, the Commission can issue a waiver of the remainder of delay upon conditions or not issue



# Demolition Delay in MA

- 130 communities or 1/3 of Massachusetts have demo delays. Newton's was enacted 1986.
- Several communities use 50 years as an age trigger, 75 years is the most common.
- Partial demo is usually defined as 25% or more of an entire building or structure NOT % of a façade / wall as in Newton.
- Newton's filing threshold is the most stringent in New England.

# Demolition Delay in Newton

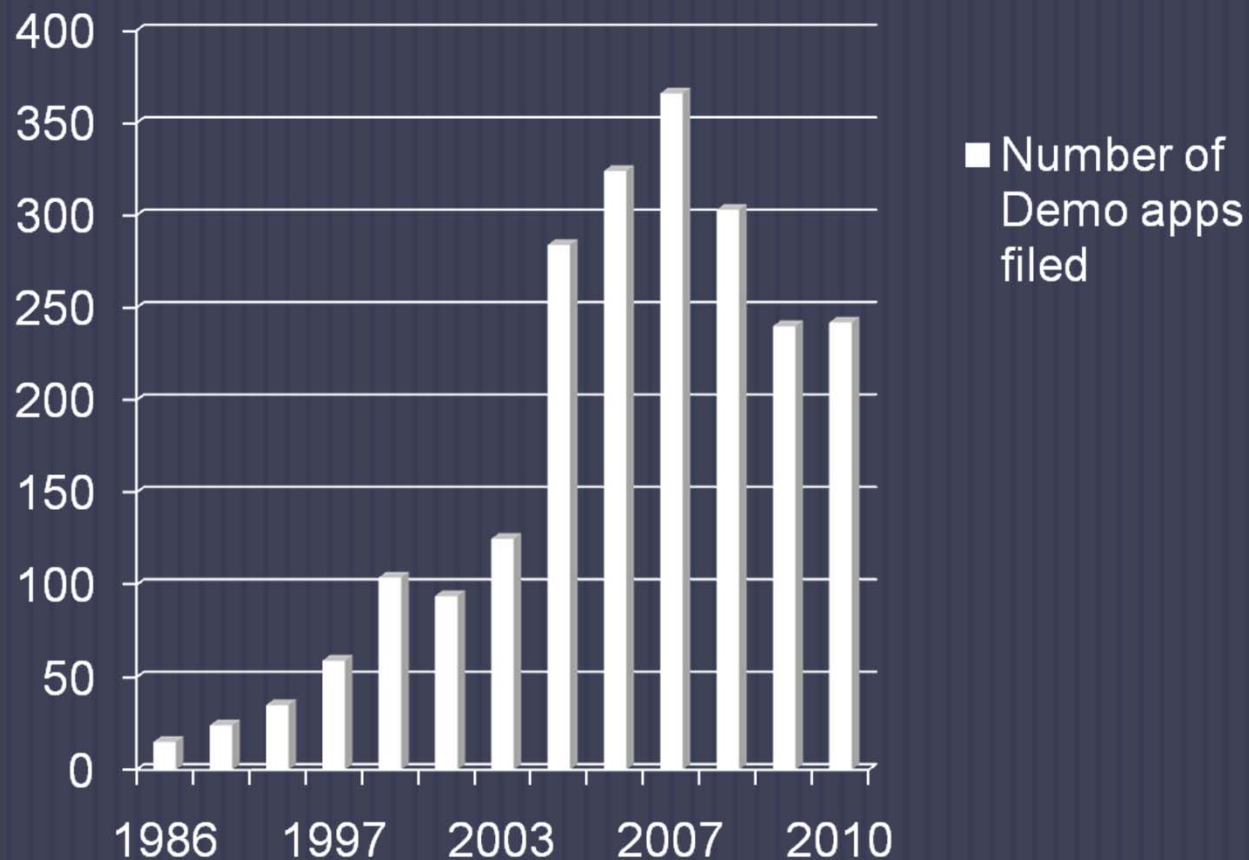
- In Newton approx. 85% of the City is subject to the demo delay
  - ▣ Over 20,000 residences alone + other buildings
  - ▣ Most of Newton was built before 1960.
- Annually on average 300 applications for demo review are filed (2-3X as many as the City Boston) and greater than any other community in New England.
- 300 annual filings comes from filing threshold (25% threshold + 50 years)

# Number of Demolition Applications Filed in Newton

## Newton Full Demo Comparison



# Number of Demolition applications filed in Newton



**Buildings  
found  
preferably  
preserved (on  
delay)**

**2009 – 19**

**2010 – 20**

# Number of Total Demolition applications filed in Newton

## Newton Full Demo Comparison



**Buildings  
applying for  
full demo  
found  
preferably  
preserved (on  
delay)**

**2009 – 13**

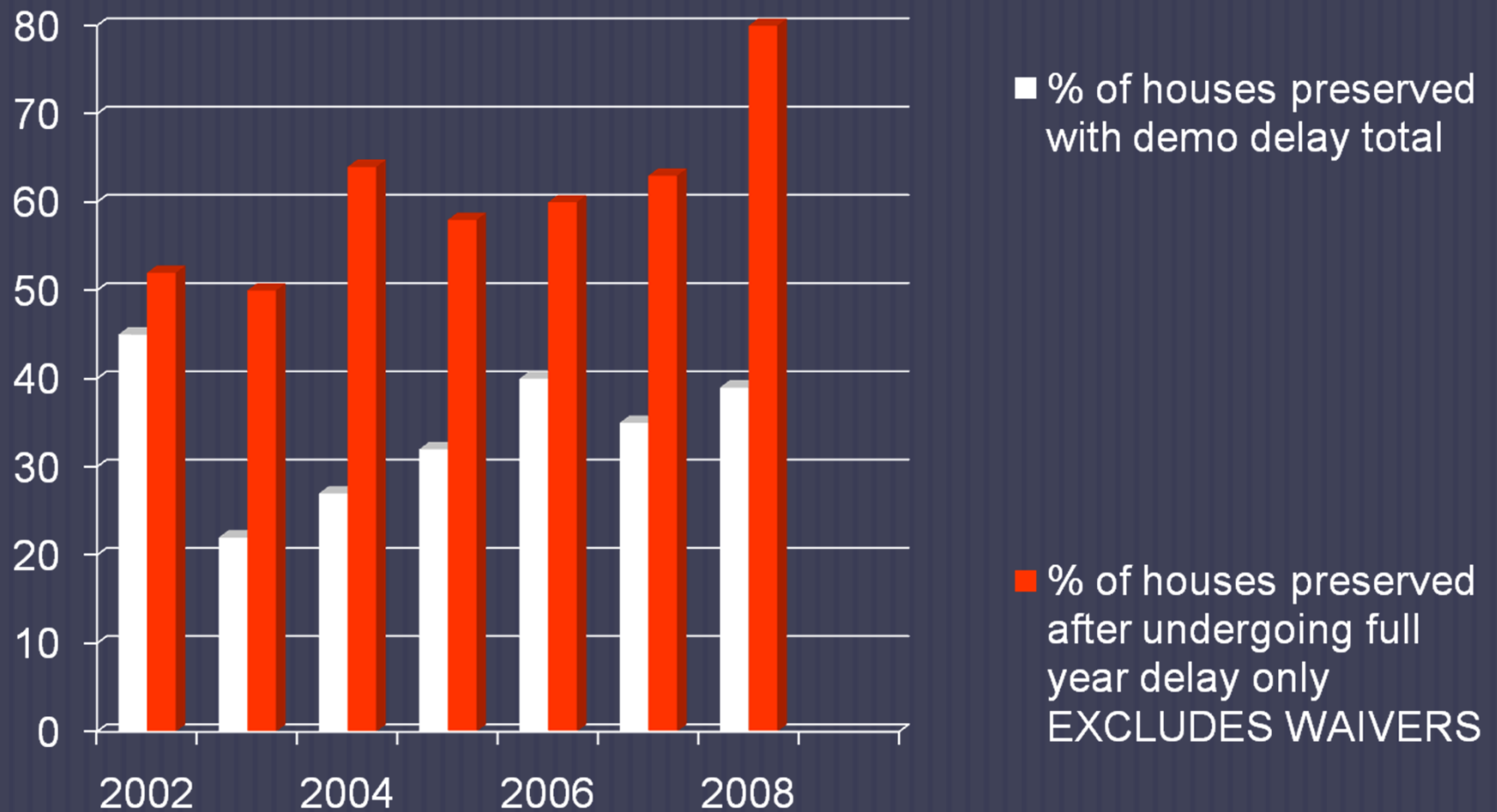
**2010 – 12**

# Demolition Delay

- On average roughly half of demolition applications are found Not Historically Significant.
- On average half of the Historically Significant applications are found Not Preferably Preserved, meaning a public hearing is required, but no delay is instituted.

# Demolition Delay

- The Commission receives many requests for waivers of the Demolition Delay for the design of replacement buildings.
- The ordinance allows for applicants apply for a waiver the instant a building is put on delay and keep returning until a waiver is obtained.



**Fewer waivers = more homes preserved**



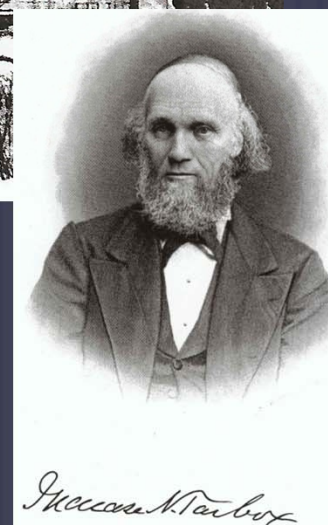
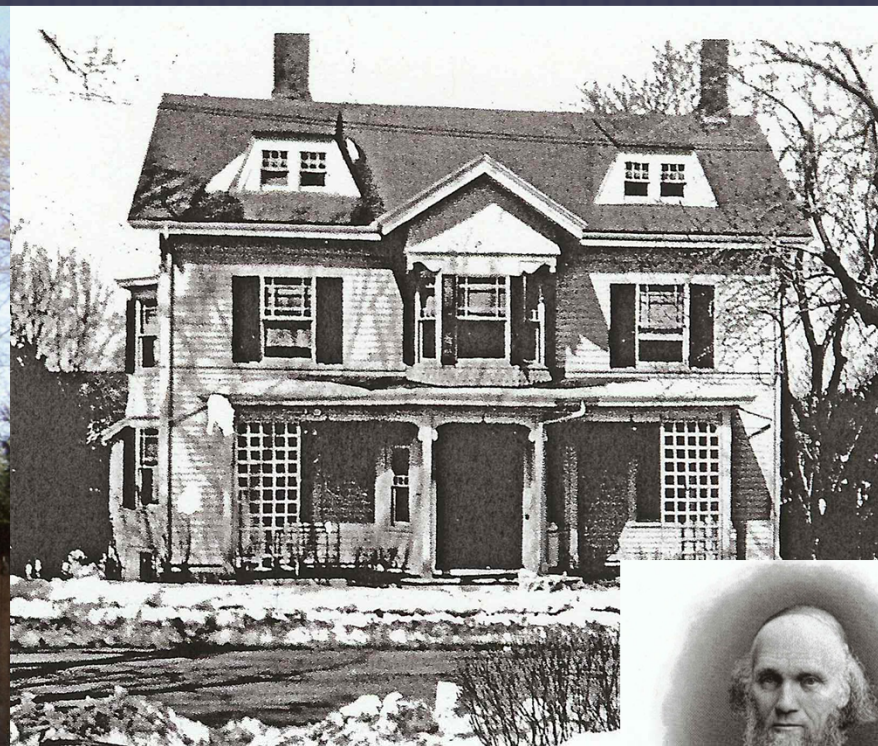
# Demolition Delay Effectiveness

- Waivers have resulted in many more buildings demolished than through undergoing the full delay, diminishing effectiveness of the demo delay.
- Before 2003, waivers more often resulted in the preservation of buildings. Since then, the waivers often result in replacement (new) buildings.

# Demolition Delay Effectiveness

- The 2003 25% filing threshold inundated the Commission with applications causing too much time spent on minor projects. In order to review projects quickly, the Commission issued many more waivers for full demolition.
- Increasing to 50% will provide a small reduction in applications, but expectation that waivers are easily obtained persists.

# Not Preferably Preserved



371 Austin Street  
Found **Not Preferably Preserved** due to  
substantial alterations



# Preferably Preserved Currently On Delay



131 Otis Street  
Late 19<sup>th</sup> century  
Italianate

# Preferably Preserved Currently On Delay



112-116 Dedham  
Street  
Late 19<sup>th</sup> century  
Carriage House

Had substantial  
neighborhood  
support for  
preservation



# Preferably Preserved Building Saved



Developer rehabled  
with addition.



830 Commonwealth  
Avenue, NR listed



# Preferably Preserved Building Saved

231 Upland  
Avenue

Underwent full 1  
year delay and  
owner changed his  
mind





# Preferably Preserved Building Saved

79-81 Washington  
Park

Property sold to  
someone willing  
to preserve building

Had substantial  
neighborhood  
support for  
preservation





# Preferably Preserved Building Lost



**Original Building**

Original building was listed on the National Register of Historic Places

811 Commonwealth Ave  
Developer replaced building after delay expired



**New Building**

# Preferably Preserved Building Lost



303 Mount Vernon Street  
Delay expired, owner demolished



# Preferably Preserved Building Lost



89 Forest Avenue

Demolished with  
waiver of delay  
for new building



# Preferably Preserved Building Lost



21 Endicott  
Street

Demolished with  
waiver of delay  
for new building

# Considerations While on Delay

- ❑ Can the building be left as is?
- ❑ Can the building be renovated?
- ❑ Can an addition be added?
- ❑ Can the building be moved?
- ❑ Can the building be sold to someone who will preserve it?
- ❑ Should the building be condemned? (ISD can condemn unsafe buildings and this trumps demo delay)

# Suggested Hierarchy

- PP 18-month delay, (full demos only)
- PP 12-month delay (full and partial)
- PP 12 month delay waived with conditions after minimum delay period
- Historically Significant, but Not PP (Meeting, but no delay)
- Not Historically Significant (No meeting)

# Proposal

- Pursue changes:
  - Increase application threshold from 25% of a façade to 50%
  - Establish minimum delay period (4 months) before issuing a waiver
  - Lengthen delay (Brookline has 18-months for NR buildings, extra delay length could be for full demos of especially significant buildings)

# Comments From Last Meeting

- **What if an owner has already considered every option before applying to demolish?**
  - ▣ To date this has not occurred as there are several options. Also the delay is an incentive to reuse and may change an applicant's mind.
  
- **The City should provide financial help to owners of historic buildings.**
  - ▣ The Housing Division provides assistance to low or moderate income owners and the state and federal government provides tax incentives. Tax credits are available for income producing properties for restoration ect. and tax deductions are available for granting a preservation easement.



# Comments From Last Meeting

## □ **Why a 4 month minimum delay?**

- Brookline, Cambridge, and Needham do not consider applications for a waiver of the delay until 4-6 months into the delay.
- With no minimum wait period, the effect of the Demolition Delay is nullified because neither the applicant or the Commission has time to work on an alternative to demolition.
- Some communities do not issue waivers at all forcing all applicants to wait the full amount of the delay.

# Comments From Last Meeting

- **Why a 4 month minimum delay? Continued...**
  - In April 2010 the Historical Commission adopted a new policy that for full demo only, when a building is found preferably preserved (on delay) the Commission will not review a waiver request for a replacement building for 2 months.
  - This has not caused problems with applicants, but also has not had a substantial effect on decreasing demolition. Four months is more likely to provide an incentive toward preservation and represents 1/3 of the current 1 year delay.

# Comments From Last Meeting

- **18 months is perhaps a burden to property owners.**
  - ▣ Unlike other regulations Newton places on private property zoning ect., the demo delay expires.
  - ▣ Ultimately the private property owner's rights are supreme.
  - ▣ The delay is used in a small number of cases each year for those properties the Commission feels are worthy of preservation.
  - ▣ A waiver of the delay can still be granted if warranted. The longer the delay, the more opportunity there is to work out a mutually beneficial solution.



Setti D. Warren  
Mayor

CITY OF NEWTON, MASSACHUSETTS

Newton Historical Commission

Donald Lang, Chair

David Morton, Secretary

11 FEB 17 11P 3: 01

CITY CLERK  
NEWTON, MA. 02159

#235-10

Telephone  
(617)-796-1120

Telefax  
(617) 796-1142

TDD/TTY  
(617) 796-1089

February 16, 2011

Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RE: Proposed Changes to the Demolition Delay Ordinance

President Lennon and Honorable members of the Board of Aldermen,

The City of Newton has lost a substantial number of historic buildings to demolition. Working with the Zoning and Planning Committee, the Newton Historical Commission has proposed modest changes to the Demolition Delay Ordinance. We are confident these changes will reduce the number of historic buildings lost to demolition, while offering a streamlined process for property owners proposing to renovate and reuse historic buildings.

The intent of the Demolition Delay Ordinance is to assure the preservation of buildings deemed historically significant. The ordinance was adopted in 1986 because historic preservation was important to the community. The Historical Commission's single most important task is to encourage the preservation of Newton's historic resources and the Demolition Delay is a valuable tool in that effort. We believe that proposed changes will benefit the community through greater preservation of the Newton's extraordinary collection of historic buildings.

The proposed changes, designed to reduce the number of total demolitions and decrease the number of filings, are as follows:

- Increase the percentage of any single exterior surface proposed for demolition that requires Historical Commission review, thereby loosening the filing threshold and reducing the number of applications (**recently passed by the Board at its February 7<sup>th</sup> meeting**);

Newton Historical Commission  
1000 Commonwealth Avenue, Newton, Massachusetts 02459  
Email: [blever@newtonma.gov](mailto:blever@newtonma.gov) [www.ci.newton.ma.us](http://www.ci.newton.ma.us)

- Extend the demolition delay period only for total building demolitions from twelve (12) months to eighteen (18) months. The demolition delay for partial demolitions, (i.e. projects involving remodeling, renovation, or additions) would remain unchanged at twelve (12) months, and;
- Introduce a four (4) month minimum delay period for total building demolition applications only. During this period, applicants proposing total demolition whose buildings have been placed on the demolition delay would be encouraged to investigate alternative solutions that do not require total demolition. Proposals to alter or add on, but preserve a building, can be reviewed by the Commission during the four month period or at any regularly scheduled Commission hearing.

The Newton Historical Commission urges you to approve these changes to the Demolition Delay Ordinance. They are consistent with the purpose of ordinance and are aligned with the goals of Newton's Comprehensive Plan. The proposed changes provide additional tools to preserve Newton's neighborhoods, while assisting homeowners in updating their properties through a thoughtful and collaborative dialogue with the Commission about their property and potential design solutions.

Sincerely,



Donald Lang,  
Chairman,  
Newton Historical Commission