

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY APRIL 11, 2011

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

Absent: Pres. Lennon

Also present: Ald. Hess-Mahan, Crossley

City staff: Seth Zeren (Chief Zoning Code Official), Jen Molinsky (Interim Chief Planner for Long Term Planning), John Lojek (Commissioner, ISD), Marie Lawlor (Assistant City Solicitor), Brian Lever (Senior Preservation Planner), Rebecca Smith (Committee Clerk).

# 7-99            ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.

**ACTION:**    **NO ACTION NECESSARY 6-0 (Swiston not voting)**

**NOTE:**        This item will eventually come under the purview of the Zoning reform scoping group. Because of this, the Committee voted to NAN it on a motion by Alderman Baker.

#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]

**ACTION:**    **HELD 5-0 (Sangiolo and Swiston not voting)**

**NOTE:**        Seth Zeren, Chief Zoning Code Official, gave a presentation to the Committee on the proposed changes to the definitions of “lot area” and “setback line” (*presentation is attached to the end of this report*). He explained that revision to “lot area” is needed as it is the baseline of our zoning requirements. There is already an interpretation of “lot area” but this revised definition would solidify it, making it more easily enforced. Regarding “setback line”, Mr. Zeren proposes that it be replaced by a new definition for “setback”. The term setback is commonly used in a variety of ways throughout the ordinance, but is itself not defined. This new definition would provide clarity for how setbacks are drawn, and to streamline and simplify the ordinance and would eliminate the need to infer what “setback” is from “setback line”. Mr. Zeren noted that all surrounding communities clearly define “setback” within their ordinances.

There was some debate about the use of the term “horizontal” within the proposed definition of “lot area”. “Horizontal” implies the horizontal plane on which the ground distance is measured, which is especially important when discussing sloped lots since if you measure the ground distance of a slope it would be greater than if you measure the horizontal distance. Ald. Yates and Ald. Lappin had concerns that this term could be

easily misinterpreted and that its true meaning wouldn't be clearly understood by the public. Commissioner Lojek, Mr. Zeren, and a variety of other Committee members assured Ald. Yates that this is a commonly used term that is understood by anyone involved in the business. Ald. Yates still objected that if the meaning of the term was so obvious, it could easily be included in the ordinances. Attorney Michael Peirce added that any common citizen looking to do any construction to their home would need to consult, at the very least, a land surveyor, who would know what the term means. To ensure that there isn't any confusion, Jen Molinsky, Interim Chief Planner for Long Term Planning, proposed that we include pictures in the ordinance for clarity. The Committee and Mr. Zeren agreed that that should be done.

Ald. Baker opined that incorporating the phrase "including an outside vestibule or porch" in the definition of setback may not be the best choice. He stated that if you're talking about what amounts to a regulatory definition then it should be removed from the definition of "setback" and instead included in a revised definition of "structure". Ald. Yates had no problem with the placement of "outside vestibule or porch", but had some question about the grammar and phrasing of the "setback" definition. Mr. Zeren will look into this.

Phil Herr, 20 Marlboro St, inquired whether or not a small front step has to abide by the same front setback as the rest of the house. Mr. Zeren answered stating that there are a number of exceptions in the setback rule which include stairs and bulkheads, but those are interpreted to be only allowed as they relate to egress. John Lojek, Commissioner of Inspectional Services, added to this comment by explaining that there is an exception in the building code for stairs reaching into the setback. He stated that if there is a door that swings out over stairs then there must be a landing to accompany the stairs. People are allowed to have a landing and stairs that reach into the setback as long as they are built at the minimum size required by code. If someone has an existing set of stairs, they may replace them, but cannot make them any larger.

Ald. Baker suggested that the Committee docket a new item to discuss revising the definition of "lot line" and "structure" as these terms are so closely related to "lot area" and "setback". Mr. Baker shared that it's important to have a solid definition of lot line since everything flows from there. The Committee agreed and moved to docket 154-10(2) with Ald. Yates abstaining because he feels items docketed by full Committees sometimes go adrift. It was noted by Ald. Johnson that in the initial presentation of this item some months ago, Mr. Zeren had presented some ideas for reorganization and revised definitions in section 30-1 but the Committee didn't want to extend the reach of this docket item too much. Mr. Zeren will review that work as it related to "lot line" and "structure" and stated that, in the future, additional definitions that are directly related to these ideas could be looked at as well.

Ald. Lappin moved hold on the item which carried unanimously.

**REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES**

#102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK, AND CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]

**ACTION:** **HELD 6-0 (Sangiolo not voting)**

**NOTE:** Items #102-11, #94-11, and #95-11 were discussed together. Ald. Hess-Mahan joined the Committee at the table to discuss the impetus for docketing these items. After going through the accessory apartment ordinance, it came to Ald. Hess-Mahan's attention that there is nothing that says you can't separate ownership between the accessory structure and the main structure when you have an accessory apartment. The only time this causes mischief is when you create an accessory unit within an accessory structure because there's no provision for by right or special permit to allow one to legalize two dwelling units within a Single Resident district. Ald. Hess-Mahan went on to explain that the absence of such language in the accessory ordinance is causing real problems. He shared with the Committee that there were two men in attendance at the meeting who each own a condo on a lot in a single residence distinct. The previous owner of the main house sought and obtained a special permit to create a unit in an accessory structure. There was nothing to indicate in the special permit Board Order that the two units can't have separate ownership, nor did the Board Order make it clear that the main structure must remain owner occupied. Owner occupancy is explained in the ordinance but not in the Board Order.

This previous owner then converted the accessory apartment and the main structure into two separate condos. When it was divided into two condos, there immediately was a loss of owner occupancy, causing a violation of the ordinance. These condos are not legal dwelling units and cannot technically be sold. Commissioner Lojek and Attorney Michael Peirce are working to assist these residents with their predicament.

Ald. Hess-Mahan explained that condos in violation of the ordinance have been able to be bought and sold because closing attorneys and the lender don't care about zoning, only about clear title on the property, so potential zoning violations are rarely, if ever, checked. When most people buy a home, they obtain standard title insurance which will protect them in a lawsuit related to title alone. If one purchases a higher level of title insurance, then they'll be protected from zoning violations as well; most people don't buy this higher level of protection though because they don't know to buy it and in turn there is no reason for conveyancing attorneys or title insurers to look into zoning.

Ald. Hess-Mahan would like to see stipulations about owner occupancy and the requirement that you can't separate ownership outlined in special permit Board Orders, which are then recorded in the registry of deeds and would be seen during the process of buying/selling.

The Essence of docket #95-11 is to require that notification of condo conversion be filed with Inspectional Services to ensure that the units are legal, up to code, and that the property isn't in violation of health or sanitation regulations. Commissioner Lojek stated that this needs to be addressed as it becomes an issue of life safety.

Ald. Baker clarified that this notification process would apply to any and all condo conversions. He also stressed that though there are likely a number of other people in the same situation as the two gentlemen in the room tonight, the Committee isn't leaving any implication that anyone not in this meeting can intentionally avoid owner occupancy; it is still a portion of the ordinance.

Ald. Yates inquired about where in the ordinance these changes would be placed. And which were changes to the Zoning Ordinance that required public hearings. Ald.

Hess-Mahan stated that 95-11 would go in ISD's section of the ordinance; the others would go in section 30-8 and 30-9 and thus would require public hearings

Ald. Baker also suggests that we get the appropriate language sooner than later and move forward especially on #95-11. Ald. Johnson agreed and stated that we'll take all three of these items up again on May 9. Ald. Hess-Mahan will work with the law department on getting language to present.

#94-11 ALD. HESS-MAHAN proposing an amendment to the accessory apartment ordinance by adding "no accessory dwelling unit shall be separated by ownership from the principal dwelling unit or structure, including, without limitation, conversion to the condominium form of ownership. Any lot containing an accessory dwelling unit shall be subject to a recorded restriction that restricts the lot owner's ability to convey interest in the accessory dwelling unit, except leasehold estates" [03-24-11 @ 9:30AM]

**HELD 6-0 (Sangiolo not voting)**

#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]

**HELD 6-0 (Sangiolo not voting)**

#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]

**SECTION (B), APPROVED 7-0-1 (Lennon abstaining)**

**SECTION (C), APPROVED 6-2 (Lennon and Lappin opposed)**

**RECOMMITTED ON 2/22/11**

**ACTION:** **SECTION (B) APPROVED 6-0 (Sangiolo not voting)**

**SECTION (C) APPROVED 5-1-1 (Lappin opposed, Shapiro abstaining)**

**NOTE:** The Committee again took up the discussion of demo delay. Ald. Baker addressed his fellow committee members about the process that has transpired since the item was recommitted by the full Board. He discussed the status of the item with Mr.

Lever and the historical commission and asked them to think about what they could revise; sending the exact same item back to the full Board wouldn't make sense and likely wouldn't yield any change. He shared that the Newton Historical Commission felt that the 4 month period at the beginning of the demo delay is something worth having, so that part remains unchanged. Ald. Baker recalled also that the full Board didn't seem to take much issue with this as it doesn't extend the delay at all. Regarding the extension of the delay to 18 months from 12 months, there was concern from the full Board that this was an imposition on residents' property. The Newton Historical Commission reconsidered the matter and felt that at this point they are comfortable revising the recommendation to allow the 18 months extension to only apply to buildings listed on the national register or eligible for the National Register. This is a subset of properties totaling somewhere between 50 and 100. These are properties that have a higher threshold of quality and warrant increased protection. In all cases, the listing on the National Register had been sought by the owners. Ald. Baker moved to approve section (B) as is. This motion carried unanimously.

Ald. Baker then moved to approve item (C) as revised to limit 18 months to properties listed on the National Register or determined to be eligible for the National Register. Brian Lever, Senior Preservation Planner, elaborated on what "eligible" means. He explained that properties that are eligible have already gone through the entire process of review by the Massachusetts Historical Commission and fit the description of a National Register property, but have not gone through the final step of paying someone to write the nomination. Being "eligible" means that the property has been reviewed and recognized as qualified, but has not gone through the final step of being listed.

The Committee inquired about whether the City could initiate the process for a home that they see should be reviewed and considered for the National Register. Mr. Lever clarified that yes, the City can initiate the process of having the the property reviewed by the Massachusetts Historical Commission for possible listing on the National Register of Historic Places. Through this process the property can become eligible, but neither the City nor the Commission can force a resident to *list* the property on the National Register.

After this discussion, the Committee voted 5-1-1 to approve section (C) as revised with Ald. Lappin opposed and Ald. Shapiro abstaining.

#65-11            TERRENCE P. MORRIS & JOSEPH PORTER proposing an amendment to the zoning ordinance to change the definition of "height" with a concomitant increase in the height to the pre-1997 limits; to make height exceptions in accessory buildings subject to special permit rather than a variance. [03-01-11 @ 1:27PM]

**ACTION:**        **NO ACTION NECESSARY 7-0**

**NOTE:**            Item 65-11 and 17-11 were voted on together. Since parens 2's were created for both these items, which include the revised language which has been advertised, these initial items are no longer needed. Because of this, the Committee voted No Action Necessary. unanimously.

#17-11

TERRENCE P. MORRIS, JOSEPH PORTER, BRUCE BRADFORD,  
GEORGE COLLINS, VERNE T. PORTER, JR., MICHAEL PEIRCE  
proposing an amendment to the zoning ordinance for the purpose of  
changing the definition of "Grade Plane" and adding a new definition for  
"Average Grade". [12-28-10 @ 10:22AM]

**ACTION:** **NO ACTION NECESSARY 7-0**

**NOTE:** See #65-11

Respectfully Submitted,

Marcia Johnson, Chairman

# Department of Planning and Development

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## **Petition #154-10: Defining lot area and setbacks**

Working Session – April 11, 2011  
Zoning and Planning Committee

# Motivations for Petition #154-10



*“What’s included in lot area?”*

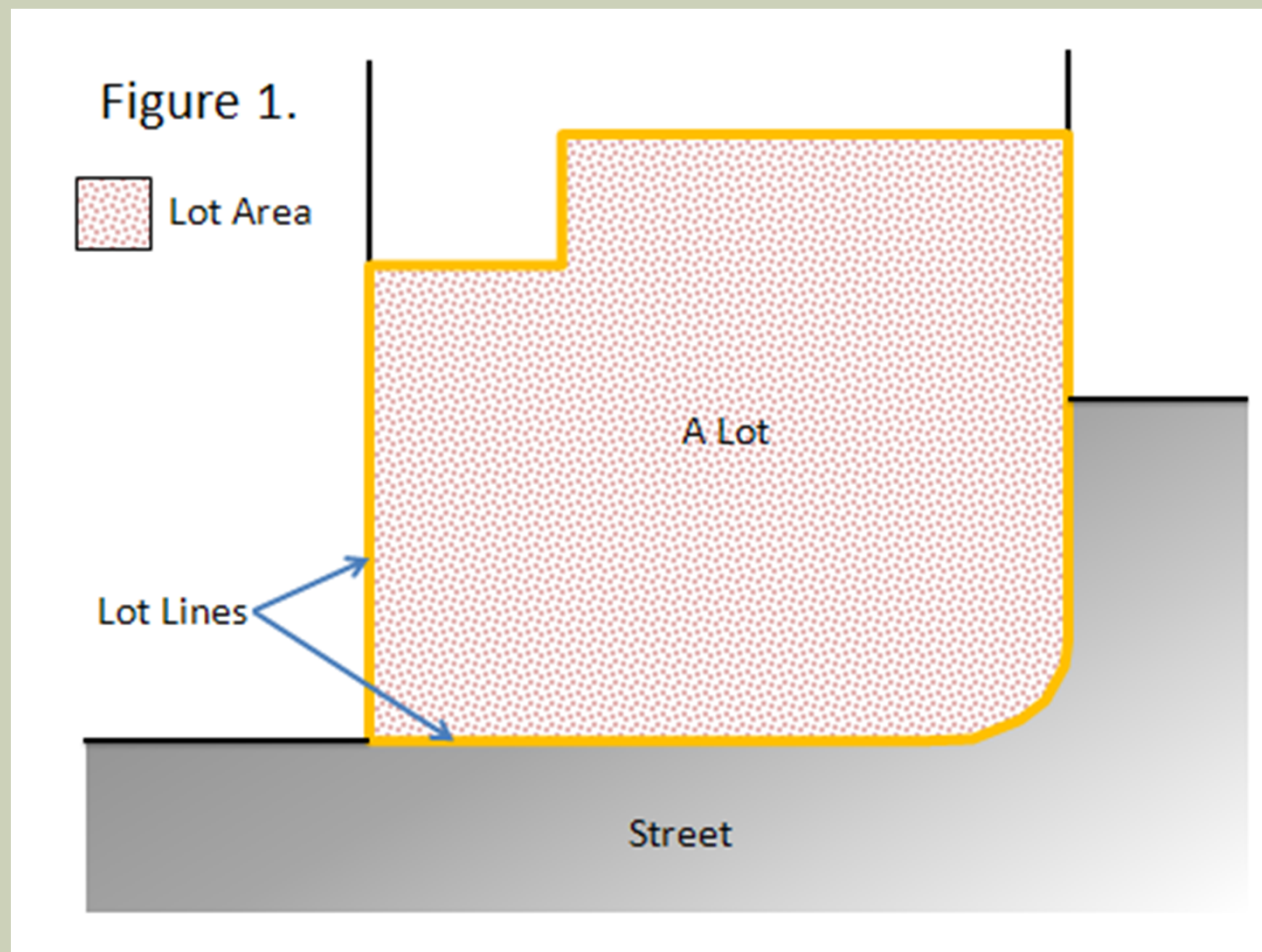
*“Where are setbacks drawn from?”*

- Define *“lot area”*
  - Foundation of many density regulations yet no definition currently exists
  - Desire to clarify how lot area applies with private streets and easements
  
- Redefine and clarify *“setback lines”*
  - Core dimensional control of building spacing
  - Zoning Ordinance uses a variety of terms related to “setback,” not all of which are defined
  - Desire to clarify how setbacks interact with private streets, open space, easements, and irregularly shaped lots



# Understood Definition of “Lot Area”

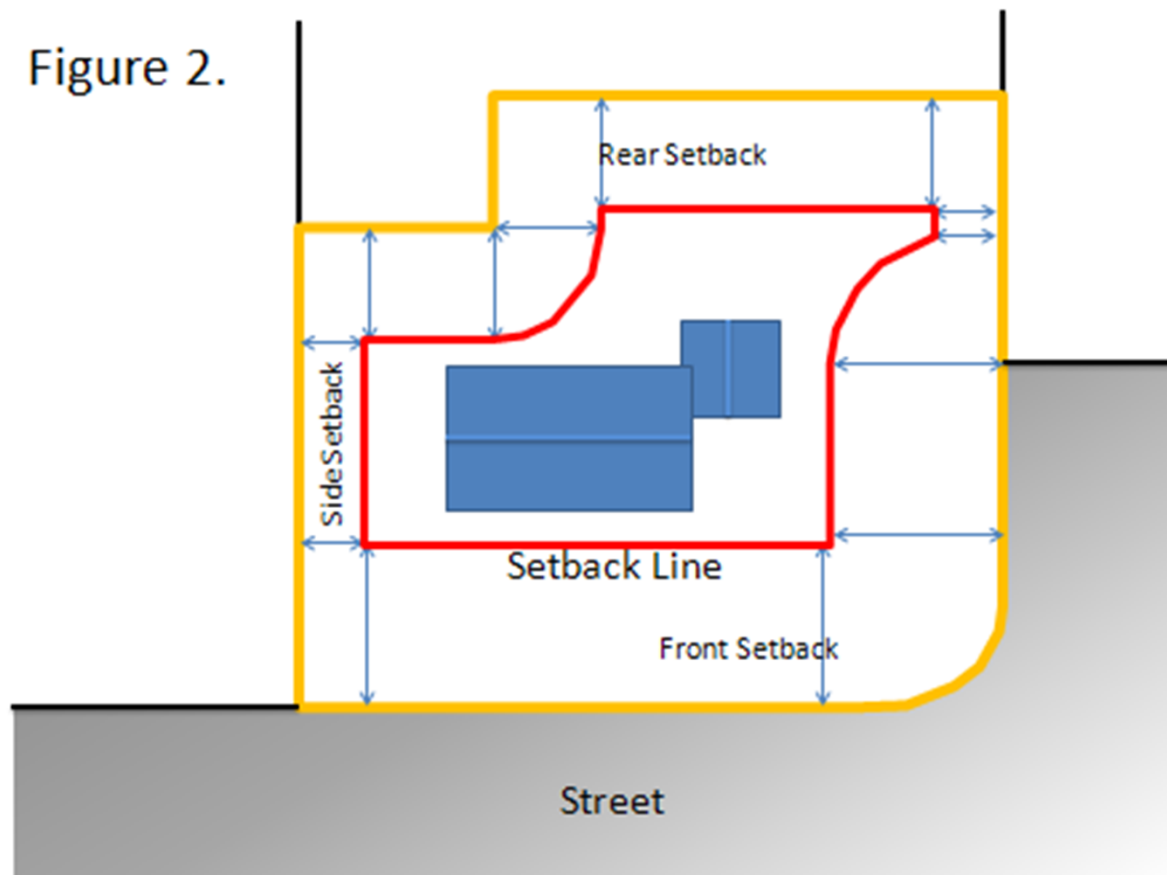
3



# Current Definition of “Setback Line”

4

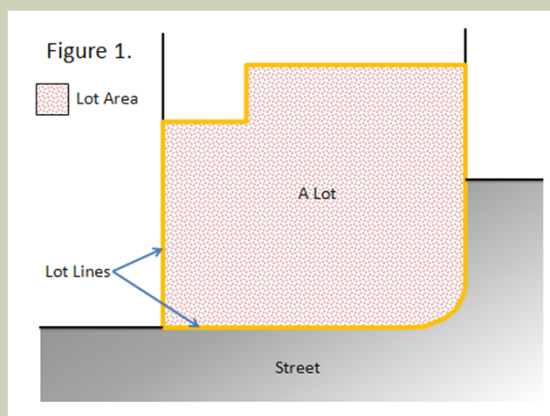
Figure 2.



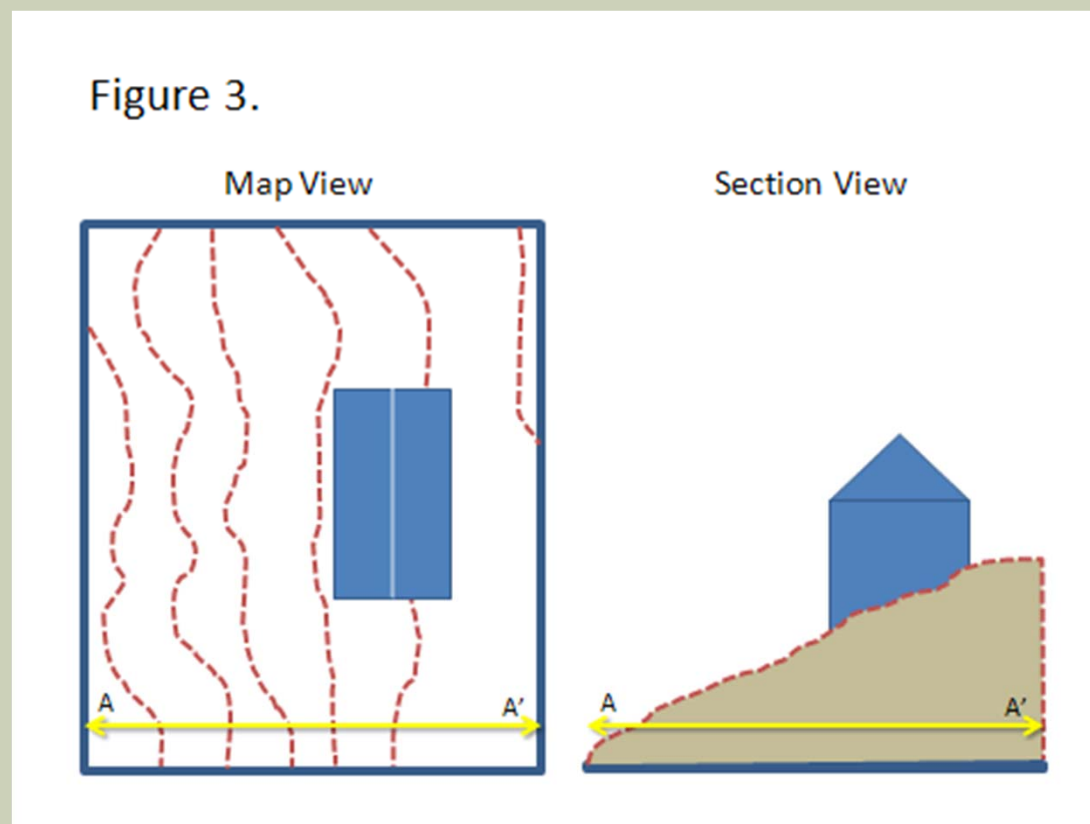
# Proposal: “Lot Area”

5

- Add new definition to Section 30-1:
  - “Lot Area: The horizontal area of a Lot within the bounding Lot Lines.”



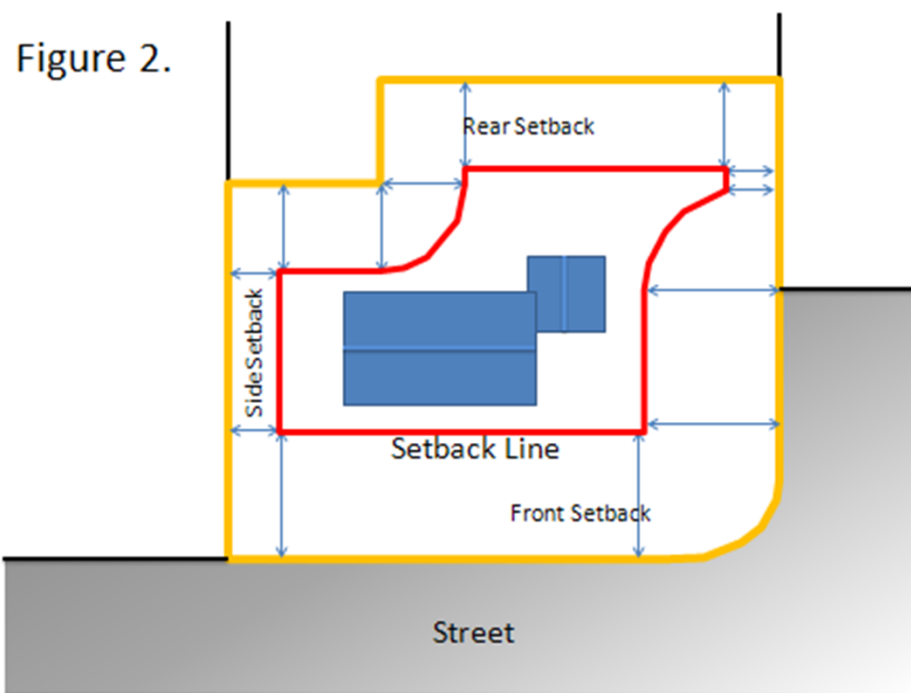
- Why “horizontal” =>



# Proposal: “Setback lines”

6

- Current definition of “Setback Line”
  - “Setback line: A line equidistant from the lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.”
- Concerns:
  - Inconsistency in use of terms in Ordinance
  - “Setback line” is really design constraint
  - No definition of “setback”



# Proposal: New “Setback” Definition

7

- New definition to replace “setback line” definition in Section 30-1
  - *“Setback: The minimum distance measured from each Lot Line that the nearest portion of a Structure, including outside vestibule or porch, may be located.*
    - ✦ Based on consideration of American Planning Association resources and the zoning codes of neighboring municipalities

# Analysis

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- The Planning Department's analysis involved the following:
  - Considering the general merits and the specific language of the proposed definitions
  - Researching how other communities define and measure lot area and setbacks
  - Considering what impacts the proposed changes might have on building outcomes in Newton
  - Identifying additional related revisions to ensure consistency with proposed language

# Analysis: Surrounding Communities /Impacts

9

- Other communities' language
  - Surrounding communities use “setback” and/or “yard,” not “setback line”
  - Language derived from Planner's Dictionary
  
- Impacts of proposed change
  - No impact on building outcomes in Newton
  - Improve clarity for density/dimensional regulations
  - Reinforce existing interpretations

## Analysis: Special Circumstances

10

- Specific question about paper and private streets and easements and their relationship to “lot area” and “setbacks”
  - ISD and Engineering report no difficulty in interpretation:
    - Lot lines are not drawn to middle of paper or private streets
    - Easements do not affect lot area calculation or measurement of setbacks
  - Planning Department sees no needs to state this in the proposed definition, though language could be added to regulation section of ordinance to reinforce interpretation



# Analysis: Consistency with Ordinance

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- Staff studied the Zoning Ordinance for consistent usage of terms and concepts
- Propose using “setback” instead of “setback line,” “side yard,” etc. in the following sections for conformity with proposed definition:
  - ✦ 30-15(b)(1) – provides relief in frontage for houses around cul-de-sacs, uses “setback line”
  - ✦ 30-15(g) – Traffic visibility around corners, uses “setback line”
  - ✦ 30-15(k) – Open Space Preservation Development, uses both “setback line” and “side/rear yard line” (currently nowhere defined in the ordinance)
  - ✦ 30-15 Table 2, footnote 1 – uses “side yard setbacks”
  - ✦ 30-15 Table 3, footnote 2 – uses “side yard setbacks”
  - ✦ 30-15 Table 4, footnote 4 – uses “side yard setbacks”
  - ✦ 30-16(a) and (b) – Dormitories,, uses “front yard setback” etc.
  - ✦ 30-18A(c)(6) and (e)(10) – Telecommunications, uses “rear yard”
  - ✦ 30-19(d)(1) – required parking for single and two family dwellings, uses “side yard”
  - ✦ 30-26(h)(1) – conditions for approving of a special permit, uses “required yards”

# Analysis: Areas for Future Consideration

12

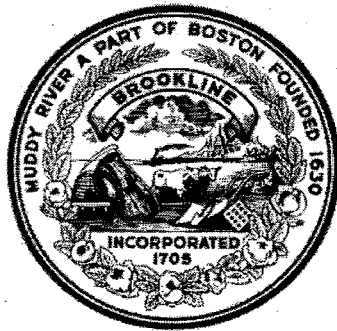
- Several related issues do cause confusion in interpretation
- Concepts that could be redefined or reorganized for ease of use:
  - Lot: Create a definition of “lot;” none currently exists
  - Lot line:
    - ✦ Clarify how setbacks are drawn from the lot lines of irregular lots
    - ✦ Move the exception for aqueducts to Section 30-15, *Density/Dimensional Controls* from the definition section
  - Lot types:
    - ✦ Move definition of “rear lot” to Section 30-1, *Definitions*
    - ✦ Revise definitions of corner and rear lot and add diagrams into the ordinance
    - ✦ Clarify the issue of definition of “corner lot” requiring front setbacks from lot lines adjoining public open space
  - Setback regulations
    - ✦ Reorganize and clarify existing setback regulations in Section 30-15
    - ✦ Incorporate “intent” language into regulations
    - ✦ Consider which setbacks should be required along footpaths

# Recommendation

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- The Planning and Inspectional Services Departments recommend the adoption of the revised definition and height limits as presented in this memorandum
- Consider related definitions/regulations where significant improvement could be made to the ordinance

# TOWN OF BROOKLINE



## GENERAL BY-LAWS

**Inclusive through November 17, 2009  
Annual Town Meeting**

**Printed by**  
The Office of the Town Clerk

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Inclusive through May 26, 2009 Annual Town Meeting.

**ARTICLE 5.2**  
**CONDOMINIUM HEALTH AND SAFETY**  
**AT TIME OF CONVERSION**

**SECTION 5.2.1 NOTICE OF CONVERSION**

Within forty-eight hours after the recording of a master deed under G.L. c. 183A, the owner or owners who create a condominium shall file a copy of the master deed with the Building Department of the Town of Brookline and the Town shall thereupon inspect the condominium premises in the following manner:

(a) The Health Department shall make an inspection within a reasonable time of said premises to determine if the same are in compliance with all applicable provisions of Article II of the State Sanitary Code as the same may be amended from time to time and all applicable rules and regulations of said Health Department; and

(b) The Building Department shall make an inspection within a reasonable time of said premises to determine if the same are in compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies.

**SECTION 5.2.2 DEFINITIONS**

"Owner", includes a legal or beneficial owner, lessor, sub-lessor, manager, assignee, or other person receiving or entitled to receive rent for the use or occupancy of any housing accommodation or an agent of any of the foregoing.

**SECTION 5.2.3 ENFORCEMENT**

(a) The Building Department shall be responsible for enforcing the provisions of Section 5.2.1 and may issue orders and promulgate regulations to effectuate the purposes of Section 5.2.1 and to establish procedures thereunder.

(b) Any owner who converts property in violation of Section 5.2.1 or of any regulation adopted or order

issued pursuant thereto shall be punished by a fine of not more than fifty dollars. Each unit converted in violation of Section 5.2.1 and each day of continued violation for such unit shall constitute a separate offense.

(c) The District Court Department, Brookline Division, and the Superior Court Department shall have jurisdiction over any action arising from any violation of Section 5.2.1 or any regulation adopted or order issued pursuant thereto and shall have jurisdiction in equity to restrain any such violation.

#### SECTION 5.2.4 TENANT PROTECTIONS

The protection of tenants of residential properties undergoing conversion to the condominium form of ownership shall no longer be regulated by this Article but instead shall be regulated by Chapter 527 of the 1983 Massachusetts Acts and Resolves as the same may be amended from time to time.

#### SECTION 5.2.5 SEVERABILITY

If any provision of this Article or the application of any provision to any person or circumstance shall be held invalid, the validity of the other provisions or the application of such provision to other persons or circumstances shall not be thereby affected.

Date sent: **Thu, 24 Mar 2011 09:26:45 -0400 (EDT)**  
Subject: **Docket Item Regarding Notice of Condo Conversion to be Filed with the City**  
From: **"Ted Hess-Mahan" <thessmahan@newtonma.gov>**  
To: **chavens@newtonma.gov,  
dzaleznik@newtonma.gov,  
jlojek@newtonma.gov,  
mlawlor@newtonma.gov,  
oyoung@newtonma.gov,  
dnorton@newtonma.gov**  
Copies to: **Clappin@newtonma.gov,  
dolson@newtonma.gov,  
dcrossley@newtonma.gov,  
dkahn@newtonma.gov,  
lfinucane@newtonma.gov,  
lwalsh@newtonma.gov,  
mjohnson@newtonma.gov,  
rsmith@newtonma.gov,  
rrooney@newtonma.gov,  
sflennon@comcast.net,  
szeren@newtonma.gov**  
Send reply to: **thessmahan@newtonma.gov**

Dear All:

I attach a docket item (20110324 Docket Item.doc) which would require that notice of condominium conversion be filed with the Inspectional Services Department and that ISD and the Health departments inspect new condos to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. I have also attached a model by-law for this proposed ordinance which I obtained from Brookline's general by-laws (Brookline Bylaws Article 5.2.pdf).

I intend to ask the chair of the Zoning and Planning Committee to take this item up in the near future along with a companion item that would prohibit separate ownership of residences with accessory apartments, including by condominium conversion, and require that notice of this prohibition be recorded at the registry, either as part of the special permit board order creating an accessory apartment or separately in the case of an accessory apartment created through the administrative process, in order to put prospective buyers, mortgage lenders and the general public on notice of this prohibition. I attach a copy of that docket item



as well (20110323 Docket Item.doc).

There is some urgency to beginning discussion and to schedule a public hearing on this item and its companion item. Earlier this week, I was contacted by two condo owners who had purchased condos on the same lot. Unbeknownst to them, the previous owners had obtained a special permit to create an accessory apartment in the accessory building on the lot of a single family residence in a district zoned for single family residences. The previous owners then split ownership of the residential and accessory dwelling units by converting them into two separate condos, which could be a violation of the accessory apartment ordinance, which requires that dwellings with accessory apartments must be owner occupied. ISD did not become aware of this situation until the owner of one of the condos requested a building permit. If the city had a requirement that notice of condo conversion be filed with ISD, this situation could have been rectified before these innocent buyers purchased condos which they may not be able to sell or even occupy if it violates our zoning laws.

Moreover, I am concerned about ensuring compliance with applicable building, health and safety codes as well as zoning laws when a residence is converted to condominium ownership. ISD has discovered a significant number of illegal apartments all over the city and many involve serious building, health and safety code violations that must be fixed for the protection of the occupants as well as the general public. There may also be other reasons for such a requirement that you are aware of, about which I would be very interested in hearing from you. Please also feel free to pass this along to other city personnel who you think should be given an opportunity to provide input and/or city personnel who I may have neglected to include on the distribution list.

Please let me know at your earliest convenience whether you have any comments or questions concerning the attached draft docket item. I would also appreciate it if someone from the law department would contact me to discuss, in particular, where this provision should be added in the city ordinances (e.g., under ISD, Health, or somewhere else).

Thank you for your consideration. Please contact me if you have any questions.

Sincerely,

Ted Hess-Mahan  
Alderman-at-Large Ward 3



# TOWN of BROOKLINE

## APPLICATION FOR CERTIFICATE OF CONDOMINIUM CONVERSION

Michael W. Shepard  
Building Commissioner  
(617)730-2100

**FEE: \$100.00 PER UNIT**

DATE: \_\_\_\_\_

In accordance with the provisions of the Town of Brookline By-Law, Article 5.2, I hereby apply for a Certificate of Inspection for Condominium Unit located at the following address, or addresses.

CONDO ADDRESS: \_\_\_\_\_

Owner: \_\_\_\_\_ Owner's Cellphone: \_\_\_\_\_

Condominium Name: \_\_\_\_\_

Certificate to be issued to:  Owner  Applicant

Name of Contact Person for Inspection: \_\_\_\_\_

Address: \_\_\_\_\_

Location of Condo within Building: \_\_\_\_\_  
(ie. 2<sup>nd</sup> floor, left or right unit)

Does property contain Commercial Units:  YES  NO

Signature of Applicant: \_\_\_\_\_

### INSTRUCTIONS

- 1) Make check payable to Town of Brookline.
- 2) Return this application with your check to Building Department, Town of Brookline, 333 Washington Street, Brookline Massachusetts 02445.

FEE: \_\_\_\_\_ AMOUNT: \_\_\_\_\_ RECEIPT NO: \_\_\_\_\_

CERTIFICATE NO: \_\_\_\_\_ ISSUED: \_\_\_\_\_

(SEE BACK OF PAGE FOR FURTHER INSTRUCTIONS)

**By-Laws of the Town of Brookline****Article 5.2 through 5.2.6 inclusive**

**Within forty-eight hours after the recording of a master deed, under General Laws C. 183A the owner or owners who create a condominium shall file a copy of the Master Deed with the Building Department of the Town of Brookline and the Town shall inspect the condominium premises in the following manner:**

- (A) The Health Department shall make an inspection within a reasonable time of said premises.**
  - (B) The Building Department shall make an inspection within a reasonable time of said premises to determine if the same are in compliance with all applicable provisions of the State and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies.**
- 1. Condominium Master Deed Registered with Building Dept. Date; \_\_\_\_\_**
  - 2. Condominium Certificate of Inspection Issued Date; \_\_\_\_\_**
  - 3. This Building was not a building of four or more units on August 20<sup>th</sup> 1982.**



Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Telephone  
(617)-796-1120


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(617) 796-1142

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(617) 796-1089

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DATE: April 7, 2011

TO: Members of the Board of Aldermen

FROM: Candace Havens, Director of Planning and Development   
Brian Lever, Senior Preservation Planner

SUBJECT: Petition # 235-10, Ald. Baker and Yates on behalf of the Newton Historical Commission requesting updates to **Section 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 (1) reduce the number of applications filed and allow smaller projects to occur without review; (2) establish a minimum period of delay for full demolition if the structure is found to be preferably preserved; and (3) 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.

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The purpose of this memorandum is to provide supplemental information for use of the Zoning and Planning Committee in its deliberations on petition #235-10 regarding the Demolition Delay Ordinance. A change to Sec. 22-50, the Demolition Delay Ordinance, requires a vote by the Board of Aldermen.

At its March 24th meeting, the members of the Newton Historical Commission revised their recommendations for proposed changes to the Demolition Delay Ordinance. The proposed minimum delay period of four months referenced as #2 in the docket item remains unchanged. The proposed extension of the demolition delay to 18-months for full demolitions referenced as #3 in the docket item, has been revised as the Commission now supports a potential 18-month delay only for those buildings and structures listed or determined eligible for listing in the National Register of Historic Places by the Massachusetts Historical Commission. The Commission felt that this will offer additional protection for those buildings and structures recognized for their historic significance by the state and/or federal government; a 12-month delay would apply to other buildings found preferably preserved as it does now.

The proposed ordinance language is attached as well as information on Demolition Delays in Massachusetts, National Register of Historic Places, and historic preservation tax incentives. The Commission hopes that the proposed ordinance change will meet with support from the Board of Aldermen.

## PROPOSED CHANGES TO THE DEMO DELAY ORDINANCE

### DIVISION 2. DEMOLITION DELAY

#### **Sec. 22-50. Demolition of historically significant buildings or structures.**

(a) *Intent and Purposes.* This section is adopted in furtherance of the policy set forth in the Newton Comprehensive Plan to 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 the City.

(b) *Definitions.* For the purposes of this section, the following words and phrases have the following meanings:

*Commission:* The Newton Historical Commission, or if the regulated building or structure is in a local historic district established pursuant to G.L. c. 40C, the local historic district commission.

*Commission staff:* The person(s) regularly providing staff services for the commission whom the commission has designated commission staff for the purposes of this ordinance.

*Commissioner:* The commissioner of inspectional services.

*Application:* An application to the commissioner for a demolition permit as defined by this ordinance.

*Demolition permit:* Any permit issued by the commissioner which is required by the State Building Code and which authorizes the total or partial demolition of a building or structure (excluding interior demolition) regardless of whether such permit is called a demolition permit, alteration permit, building permit, etc.

*Total demolition:* The pulling down, razing or destruction of the entire portion of a building or structure which is above ground regardless of whether another building or structure is constructed within the original footprint of the destroyed building or structure.

*Partial demolition:* The pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

(1) *Items requiring review by the commission at a hearing.* Partial demolition of any architecturally significant features which would alter the massing of the existing structure including, but not limited to the following items.

a) Additions or ~~rear~~ells determined to be architecturally significant by commission or commission staff.

- ~~b) Attached garages determined to be architecturally significant by commission or commission staff.~~
- c) Roofs, including flat roofs, determined to be architecturally significant by commission or commission staff.
- d) Porches determined to be architecturally significant by commission or commission staff, except open decks, ~~and staircases, and entryways, which are not original to the structure and therefore which are excluded from review. excluded from review.~~
- e) Removal or envelopment by subsequent additions ~~covering~~ of 100% ~~or more~~ of any single exterior wall surface, ~~which includes exterior wall surfaces that would be enveloped by subsequent additions.~~ Each wall is calculated by square footage individually.
- f) Demolition of any architectural detail determined to be architecturally significant by commission or commission staff. ~~including but not limited to the following items.~~

~~i) Brackets~~

~~ii) Crown molding~~

~~iii) Porch columns and railings~~

~~iv) Bay windows~~

~~v) Dormers~~

~~vi) Chimneys~~

(2) *Items requiring review by the commission that may be reviewed and approved by commission staff without a hearing if plans indicate*

- a) Removal or alteration of the roof structure ~~Construction of new dormers which encompass less than 50% of the roof surface.~~
- ~~b) Construction on existing flat roofs, which will not alter a significant architectural feature.~~
- eb) Repair or replacement of existing and original historic porches with similar materials to match existing.
- ~~d) Removal of less than 50% of the roof structure.~~
- ec) Demolition or construction of additions or alterations not visible from a public way.

fd) Removal or envelopment by subsequent additions covering of ~~25-50~~ to 50-100% of any single exterior wall surface, ~~which includes exterior wall surfaces that would be enveloped by subsequent additions~~. Each wall is calculated by square footage individually.

(3) *Items considered to be de minimis and requiring no commission or commission staff review:*

a) Open porches and entryways consisting of only a set of stairs, an entrance platform and a roof which are utilitarian in design or do not contribute to the architectural significance or character of the building.

~~b) b) ——— Demolition or~~ Construction of new additions which remove, alter, or envelop ~~impact~~ 50-25% or less of a single exterior wall;

~~b)c)~~ Removal or alteration of less than 50% of the roof structure

~~e)d)~~ Normal maintenance of a building's exterior, including, but not limited to repair or replacement of roof surfaces, repair or replacement of gutters, and repair or replacement of existing doors and windows, including casings and frames, repair or replacement of existing exterior cladding (clapboards, shingles, masonry, etc.).

*Historically significant building or structure:* Any building or structure which is in whole or in part fifty or more years old and which

- (1) is in any federal or state historic district, or if in any local historic district, is not open to view from a public street, public park or public body of water; or
- (2) is listed on or is within an area listed on the National Register of Historic Places or eligible for such listing, or listed on or is within an area listed on the State Register of Historic Places, or eligible for such listing; or
- (3) has been determined by the commission or its designee to be a historically significant building after a finding that it is:
  - a) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the City of Newton, the Commonwealth of Massachusetts or the United States of America: or
  - b) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or

- c) located within one hundred fifty (150) feet of the boundary line of any federal or local historic district and contextually similar to the buildings or structures located in the adjacent federal or local historic district.

*Preferably preserved:* An historically significant building or structure which the commission has determined should be preserved, rather than totally or partially demolished, in accordance with the standards set forth in subsection (c)(5) below.

(c) *Procedure.*

- (1) No demolition permit for a building or structure which is in whole or in part fifty or more years old shall be issued by the commissioner except in conformity with the provisions of this section, as well as any other applicable law, statute, ordinance or regulation.
- (2) If any applicant and the owner of the building or structure, if different from the applicant seeks to demolish, in whole or in part, a building or structure which is in whole or in part fifty or more years old, the owner of the building or structure shall file a demolition review application with the commission for a determination as to whether the building or structure is historically significant and shall provide the commission with the following information:
  - a) a site plan or a copy of that portion of the tax assessor's map which shows the building or structure to be demolished and the property on which it is located;
  - b) photographs of all existing façade elevations of the building or structure to be totally or partially demolished;
  - c) a description of the proposed plans for demolition and the reason(s) therefore.
- (3) Within fifteen (15) days after the commission's receipt of a demolition review application, the commission shall make a determination as to whether the building is or is not historically significant and shall notify, in writing, the commissioner and the applicant of this determination. The commission may delegate the determination that a building or structure is historically significant to commission staff or to a designated commission member. In the event that the commission delegates the determination to the commission staff or to a designated commission member, the commission shall adopt criteria to be followed by the staff or the member in making this determination.

A determination that a building or structure is or is not historically significant made by the commission staff or a designated commission member may be appealed to the full commission by filing a notice of appeal with the commission not later than fifteen (15) days after the written notice that the building or structure is or is not historically significant has been filed with the commissioner. Filing the appeal of the determination shall not stay the effect of such determination. Following a hearing before the commission, which may, but is



not required to be conducted in conjunction with the hearing on whether the building or structure is preferably preserved, the commission shall affirm or reverse the determination and file notice of such determination with the commissioner. If the appeal of the determination is made independent of the preferably preserved hearing, the commission shall follow the same procedure for such hearing as that set forth in subsection (c)(5) below. If the commission fails to conduct a hearing on the appeal of said determination or fails to rule on the appeal within forty-five (45) days from the filing of the appeal, the determination that a building or structure is or is not historically significant shall remain unchanged, and the commissioner shall not issue a demolition permit until the procedural requirements of subsection (c)(5) below have been satisfied.

- (4) No demolition permit shall be issued by the commissioner for a building or structure determined to be historically significant until the procedural requirements of subsection (c)(5) of this ordinance have been satisfied. The commissioner may grant the demolition permit if the commissioner:
- a) does not receive written notice within forty-five (45) days after the commission's receipt of a demolition permit application that the building or structure is historically significant; or
  - b) receives written notice from the commission that the building either is not historically significant, or is historically significant, but clearly would not be deemed preferably preserved by the commission.
- (5) When a building or structure is determined to be historically significant, the commission shall hold a public hearing to determine whether the building or structure, or the portion of the building or structure to be demolished, is preferably preserved. The applicant shall provide the commission with the following information for this determination:
- a) in the case of partial demolition involving alteration(s) or addition(s) to a building or structure, (i) proposed plans and elevation drawings for the affected portion of the building or structure; and (ii) a plot plan of the property, if the same is required to obtain a permit under the State Building Code for the proposed alteration(s) or addition(s); and
  - b) if the site of the building or structure to be demolished is to be redeveloped, plans showing the use or development of the site after demolition together with a statement identifying all zoning variances and/or special permits which may be required in order to implement the proposed use or development.

The date the commission receives all the above information shall be stamped on the information received and shall be considered the submission date. Following public notice as set forth in subsection (c)(8) of this ordinance, the commission shall hold a public hearing within forty-five (45) days of the submission date to determine whether the building or structure should be preferably preserved, based on the criteria set forth in this paragraph. If the commission finds that the demolition proposed in the application would result in the demolition of a historically significant building or structure whose

loss would be detrimental to the historical or architectural heritage or resources of the City of Newton, then the commission shall find that the building or structure should be preferably preserved.

- (6) Upon a determination that the building or structure which is the subject of an application for a demolition permit is preferably preserved, the commission shall give written notice of the determination to the commissioner. A copy of the commission's determination shall also be sent to the applicant for the demolition permit and to the owner of the building or structure if different from the applicant.

a) For a building or structure listed in the National Register of Historic Places or determined eligible for listing in the National Register of Historic Places by the Massachusetts Historical Commission No demolition permit shall be issued for a Total Demolition or a Partial Demolition of a building or structure until eighteen (18) months ~~one (1) year~~ after the date of such determination by the commission, unless the commission informs the commissioner prior to the expiration of such ~~one (1) year~~ eighteen (18) month period that the commission is satisfied that the applicant for the demolition permit and the owner of the building or structure, if different from the applicant, has:

ia) made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or,

iib) has agreed to accept a demolition permit on specified conditions approved by the commission.

iii) If the specified conditions involve approved plans and elevations, then no demolition permit shall be issued by the commissioner unless the applicant provides, as part of his application for a demolition permit, a complete set of plans and elevation drawings which have been signed and stamped by the commission or commission staff. The applicant shall have two (2) years from the date of the expiration of the eighteen (18) month period in which to apply for and obtain a demolition permit. No demolition permit shall be issued for such building or structure after the expiration of this two (2) year period, unless the procedural requirements of subsection (c)(5) hereof have been satisfied.

iiiv) **In order to encourage applications that preserve, restore, reuse, or rehabilitate historic buildings and structures, no application for a total demolition of a building or structure which has been unfavorably and finally acted upon by the commission shall be acted favorably upon within four months after the date of final unfavorable action unless the said commission finds**  
**(a) by a vote of two-thirds (2/3) of those members present, substantial and material changes in said resubmitted application, or**

**(b) by a majority vote of those members present, that the resubmitted application proposes to preserve the building or structure.**

**iv)v) Due notice shall be given to parties in interest of the time and place of the proceedings when the resubmitted application will be considered.**

**b) For all other buildings and structures not covered under section 6a above, no demolition permit shall be issued for a Total Demolition or a Partial Demolition of a building or structure found preferably preserved until one (1) year after the date of such determination by the commission, unless the commission informs the commissioner prior to the expiration of such one (1) year period that the commission is satisfied that the applicant for the demolition permit and the owner of the building or structure, if different from the applicant, has:**

**i) made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or,**

**ii) agreed to accept a demolition permit on specified conditions approved by the commission.**

**iii) ~~ii)~~—If the specified conditions involve approved plans and elevations, then no demolition permit shall be issued by the commissioner unless the applicant provides, as part of his application for a demolition permit, a complete set of plans and elevation drawings which have been signed and stamped by the commission or commission staff. The applicant shall have two (2) years from the date of the expiration of the one (1) year period in which to apply for and obtain a demolition permit. No demolition permit shall be issued for such building or structure after the expiration of this two (2) year period, unless the procedural requirements of subsection (c)(5) hereof have been satisfied.**

**iv) In order to encourage applications that preserve, restore, reuse, or rehabilitate historic buildings and structures, no application for a total demolition of a building or structure which has been unfavorably and finally acted upon by the commission shall be acted favorably upon within four months after the date of final unfavorable action unless the said commission finds**

**(a) by a vote of two-thirds (2/3) of those members present, substantial and material changes in said resubmitted application, or**

**(b) by a majority vote of those members present, that the resubmitted application proposes to preserve the building or structure.**

**vi) Due notice shall be given to parties in interest of the time and place of the proceedings when the resubmitted application will be considered.**

- (7) Upon a determination by the commission that a building or structure is not preferably preserved or upon the commission's failure to make any determination within forty-five (45) days of the submission date, the commissioner may grant a demolition permit for the building or structure.
- (8) Public notice of commission hearings shall provide the date, place and time of the hearing and the addresses of the properties to be considered at the hearing. Public notice shall include, at a minimum, posting with the city clerk and notification to the director of planning and development, to the applicant, to the owners of all abutting property and to other property owners deemed by the commission to be materially affected.
- (9) If the applicant is someone other than the owner or his designated agent a demolition review application cannot be filed until the commission receives written authorization from the owner that the applicant may apply for changes to their property.

(d) *Emergency Demolition.* If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the commissioner. As soon as practicable after the receipt of such request, the commissioner shall arrange to have the property inspected by a board consisting of himself or his designee; the city engineer or his designee; the fire chief or his designee; the chairman of the commission or his designee; and one (1) disinterested person chosen by the commissioner. After inspection of the building or structure and consultation with the other members of the board, the commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety. If the commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to the immediate demolition of the building or structure, then the commissioner may issue an emergency demolition permit to the owner of the building or structure. Whenever the commissioner issues an emergency demolition permit under the provisions of this section of the ordinance, he shall prepare a written report describing the demolition of the building or structure and the basis of his decision to issue an emergency permit with the commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by M.G.L. c. 143, sections 6-10.

In the event that a board of survey is convened under the provisions of M.G.L. c. 143, section 8 with regard to any historically significant building or structure, the commissioner shall request the chairman of the commission or his designee to accompany the board during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the commission.

- (e) *Non-Compliance.* Anyone who demolishes a historically significant building or structure without first obtaining and complying fully with the provisions of a demolition permit issued in accordance with this section shall be subject to a fine of not more than three hundred dollars (\$300.00) for each day of violation of this ordinance.

In addition, unless a demolition permit issued in accordance with this section was obtained and unless such permit was fully complied with, including full compliance with plans and elevation drawings signed and stamped by the commission, the commissioner may elect to (1) issue a stop work order halting all work on the building or structure until the commission notifies the commissioner in writing that the applicant has appeared before the commission to address such non compliance, and the commission has accepted the applicant's plans to remediate such noncompliance; (2) refuse to issue any certificates of occupancy, temporary or final, until any noncompliance has been remediated; and/or (3) refuse to issue a permit required by the State Building Code pertaining to any property on which an historically significant building or structure has been demolished for a period of two (2) years from the date of demolition, provided that this provision shall not prevent the commissioner from issuing any permit required to insure the safety of persons and property.”

The commission may, upon application to and determination by the commission that reuse of the property in accordance with building plans prepared by the owner and submitted to the commission and all relevant agencies will substantially benefit the neighborhood and provide compensation for the loss of the historic elements of the property either through reconstruction of the lost historic elements or significant enhancement of the remaining historic elements of the site or the surrounding neighborhood, waive the fine, in whole or in part, and/or the ban on issuance of a building permit in order to allow the issuance of a building permit for construction or reconstruction of a building or structure approved by the commission. An owner receiving a waiver of the fine and/or ban on issuance of a building permit under this provision shall execute a binding agreement enforceable against all heirs, assigns and successors in interest with the commission to insure that any reuse of the site undertaken during the two-year ban shall be implemented in accordance with the plans, terms, and conditions approved by the commission. Any reuse of the site undertaken during the two-year ban which fails to comply with the terms of the commission's approval granted under this provision shall also permit reinstatement of the fine for non-compliance with this ordinance.

- (f) *Securing Historically Significant Buildings and Structures.* If, following an application for a demolition permit, a building or structure has been determined to be historically significant, and the building or structure is subsequently destroyed by fire or other cause before any determination is made by the commission as to whether the building or structure is preferably preserved, a rebuttable presumption shall arise that the owner voluntarily demolished the building or structure without obtaining a demolition permit in accordance with the provisions of this ordinance. In such cases, the commissioner shall not issue any permit required under the State Building Code pertaining to the property on which the historically significant building or structure was located (except as necessary to secure public safety or health) for a period of two (2) years from the date of destruction of the building or structure, unless the owner can provide evidence satisfactory to the commissioner that he took reasonable steps to secure the building or structure against fire or other loss or that the cause of the destruction was not otherwise due to the owner's negligence.
- (g) *Securing Preferably Preserved Buildings and Structures.* If during the period of demolition delay for a building or structure determined to be preferably preserved, such building or structure is destroyed through fire or other cause, the commissioner shall not issue any permit

required under the State Building Code pertaining to the property on which the preferably preserved building or structure was located (except as necessary to secure public safety or health) until the end of the period of demolition delay, unless the owner can provide evidence to the commission that he took reasonable steps to secure the building or structure against fire or other loss or that the cause of the destruction was not otherwise due to the owner's negligence.

- (h) *Buildings and Structures located in Local Historic Districts.* The provisions of this ordinance shall not apply to any building or structure located in a local historic district established pursuant to M.G.L. c. 40C and subject to regulation by the local historic district commission under the provisions of Sec. 22-40 of the Revised Ordinances.
- (i) *Severability.* In case any section, paragraph, or part of this section is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, or part of this ordinance shall continue in full force and effect.
- (j) *Enforcement.* The commission is authorized to institute any and all actions and proceedings, in law or in equity, in any court of competent jurisdiction, as it deems necessary and appropriate to obtain compliance with the requirements of this section.
- (k) *Applicability.*
- (1) Notwithstanding the foregoing, this section shall not apply and a demolition permit shall be issued for the reconstruction substantially similar in exterior design of a building structure or exterior architectural feature damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within six (6) months thereafter and is carried forward with due diligence. This exception shall be limited to reconstruction of only that portion of the building or structure damaged by such catastrophic event.
  - (2) This subsection shall not apply to buildings or structures which have been designated as landmarks pursuant to Sec. 22-60 of the revised ordinances. (Ord. No. S-230, 12-1-86; Ord. No. S-315, 6-20-88; Ord. No. T-252, 12-7-92; Ord. No. U-19, 6-20-94; Ord. No. V- 98, 12-16-96; Ord. No. V-99, 12-16-96; Ord. No. X-205, 5-1-06; Ord. No. Z-22, 04-22-08)



Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

### Newton Historical Commission

Donald Lang, Chair  
David Morton, Secretary

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(617) 796-1142

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(617) 796-1089

11 APR 14 A 4:19  
CITY CLERK  
NEWTON, MA. 02159

April 13, 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,

Working with the Zoning and Planning Committee, the Newton Historical Commission has revised its proposed changes to the Demolition Delay Ordinance. The proposed minimum delay period of four months before a waiver of the demolition delay can be considered remains unchanged. The proposed extension of the demolition delay to 18-months for full demolitions, has been revised as the Commission now supports a potential 18-month delay only for those buildings and structures listed or determined eligible for listing in the National Register of Historic Places by the Massachusetts Historical Commission. The Commission feels that this will offer additional protection for those buildings and structures recognized for their historic significance by the state and/or federal government; a 12-month delay would apply to other buildings found preferably preserved as it does now. The Commission is confident that the proposed ordinance 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 proposed changes, designed to reduce the number of total demolitions and decrease the number of filings, are as follows:

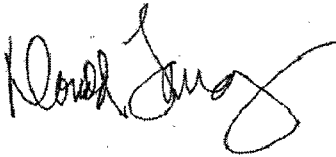
- Increase the percentage of any single exterior surface proposed for demolition that requires Historical Commission review, thereby loosening the filing threshold and reducing the number of applications (**recently passed by the Board at its February 7<sup>th</sup> meeting**);

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 from twelve (12) months to eighteen (18) months only for buildings and structures listed or determined eligible for listing in the National Register of Historic Places, 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. 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. We believe that proposed changes will benefit the community through greater preservation of the Newton's extraordinary collection of historic buildings.

Sincerely,



Donald Lang,  
Chairman,  
Newton Historical Commission