

ZONING & PLANNING COMMITTEE  
PUBLIC HEARING NOTES  
MONDAY, FEBRUARY 22, 2010

Present: Ald. Johnson (Chairman), Baker, Lappin, Lennon, Sangiolo, Shapiro, Swiston and Yates; also Present: Ald. Hess-Mahan

Others Present: Marie Lawlor (Assistant City Solicitor), Jen Molinsky (Planning Dept.), Dave Norton (Zoning Enforcement Officer) and Karyn Dean (Committee Clerk)

Planning Board Members Present: Joyce Moss (Acting Chair), David Banash, Howard Haywood, Doug Sweet, and Scott Wolf

*A Public Hearing on the following item was held in conjunction with the Planning & Development Board:*

#164-09        ALD. HESS-MAHAN proposing the following amendments to Chapter 30 of the City of Newton Revised Zoning Ord, as amended, 2007, relative to accessory apartments:

- (1) amend Sections 30-8(d)(1), 30-8(d)(1)a, 30-9(h)(1), and 30-9(h)(1)a) to explicitly allow the homeowner to live in the accessory apartment;
- (2) amend Section 30-9(h)(1) and 30-9(h)(2) to allow accessory apartments in a detached structure associated with a single-family residence in a Multi Residence 1 and Multi Residence 2 district and to clarify that accessory apartments are allowed in detached structures associated with two-family residences; and amend 30-9(h)(1) to clarify that a single-family dwelling located in a Multi Residence 1 or Multi Residence 2 district may be divided into a two-family dwelling according to other provisions of the zoning ordinance;
- (3) amend the provisions of Sections 30-8(d)(1)b) and 30-9(h)(1)b) to allow accessory apartments in residential buildings built 10 or more years before an application for a permit is submitted;
- (4) delete the provisions of Sections 30-8(d)(1)h) and 30-9(h)(1)h) that require landscape screening for fewer than 5 parking stalls;
- (5) amend Sections 30-8(d)(1)d), 30-8(d)(1)e), 30-8(d)(2)b), 30-9(h)(1)d), and 30-9(h)(1)e) to allow limited exterior alterations or additions, subject to FAR or other dimensional controls, to accommodate an accessory apartment; amend the conditions, where a special permit is required, for approval of exterior alterations or additions; and to remove the time limit before which additions and exterior alterations must be completed to meet the requirements of Table 30-8;
- (6) amend 30-1, definition of “accessory apartment” to be consistent with the changes listed above.

### Introduction

Ald. Hess-Mahan provided an overview of the proposed amendments to the ordinance.

### Questions

Ald. Yates asked if the list still existed for those who had inquired about accessory apartments but did not fulfill the requirements under the Accessory Apartment Incentive Program (AAIP). Ald. Hess-Mahan said he did not know for sure. CLN, which is the organization that was tasked with administering the program is no longer in existence. He said he could try to find out from Kevin McCormack, who actually compiled the list.

Ald. Yates asked how many accessory apartments were developed by-right under the RAAP (Review of Accessory Apartment Petitions) program. Jen Molinsky said that 28 accessory apartments were created since 1995: 5 were under the RAAP program as-of-right; and 23 were by special permit. There were also an additional 8 units that were brought into conformance through a portion of the ordinance that allowed for legalization for pre-existing nonconforming units.

### Planning Department Presentation

Jen Molinsky provided a PowerPoint presentation describing the proposed changes in the ordinances. [It is attached.](#)

### Questions

Ald. Baker said that in the documentation of impediments of going forward with creating an accessory apartment under the AAIP, the screening requirement did not appear to be an impediment. He wanted to better understand why this change was being proposed and what the impact might be. He would also like to understand the scope of the proposed dimensional changes and how they work.

*David Banash.* Mr. Banash said that perhaps the debate should be focused on changing the square footage rather than using the kind of language being proposed. He felt it may be too subjective and failed with the Home Business ordinance. He wondered if the committee considered modifying the percentage of square feet instead of the standard of structure and residential character of the neighborhood. Ald. Hess-Mahan said the accessory unit would remain accessory at roughly 1/3 the size of the dwelling (or less). It would not become close to the same size as the main dwelling and become more like a two-family dwelling. He felt it would be unfair for some people to be unable to meet the minimum size requirements for both the accessory unit and the main dwelling solely because of their lot size. A neighbor may be able to build a much larger house because they could build up to the FAR. His intent is to give someone the same rights to create an accessory unit as someone who just wants to expand their single-family house. Jen Molinsky said the current ordinance for a special permit speaks to the architectural integrity and the character of the neighborhood. The proposed language for the as-of-right unit had none of that so they thought there should be some limit on what the exterior changes could be. She said there could be other ways to handle this should the Committee wish including square footage requirements, detail requirements, etc.

Mr. Banash said he was concerned about proposed amendment 5 regarding exterior changes. Owners of nonconforming structures could apply for a special permit for an addition, and later apply for a permit for an accessory apartment. He felt this was too large a loophole. His primary concern was noticeably changing the character of a neighborhood, although he was in favor of allowing some expanded use of accessory units. He would be more comfortable with a quantitative standard instead of having discretion of the phrase "character of the neighborhood". Ms. Molinsky said a conforming property can make these changes as long as they don't become nonconforming in the process. In a way, the new language is slightly more restrictive to nonconforming properties. She said, however, a nonconforming property always has the right to go for a special permit to expand beyond FAR. She said it was true that they could do it for another purpose and later try to come back for an accessory apartment.

Mr. Banash noted that in the current ordinance, there is an absolute limit that no matter what the character of the neighborhood, one still could not build more than what the figures state (250 feet or 25%). Jen Molinsky said the proposed changes are geared toward conforming properties. She said that what they are proposing does not have those limits of 250 feet or 25%, but does have to conform to all the other requirements. Mr. Banash said this was his concern. He felt there was too much ambiguity and subjectivity in the other requirements. Ms. Molinsky said the objective controls would come in the form of the dimensional controls in the Tables.

*Scott Wolf.* He wondered if there was a citywide limit on the number of cars that can be parked in an SR or MR zone and if that has been considered when proposing revisions to this ordinance. Ms. Molinsky said she did not think there was a limit on a SR property. The rules needed to be followed about where they could be located, and that would limit the number to allowable locations, but she did not think there was not a set upward limit. Ald. Baker said there would be a minimal number of spaces that had to be made available for a single family and there were requirements surrounding that, but he wasn't aware of a maximum limit on the number of cars either. Ald. Hess-Mahan agreed.

*Joyce Moss.* Ms. Moss asked how the occupants of accessory units or their main dwellings would be monitored to ensure they were being used appropriately. This was of particular concern in neighborhoods close to colleges. Ald. Hess-Mahan said it would be up to the zoning enforcement officer. The process was primarily complaint driven. He is aware of places near the college where violations have occurred and the situation was either rectified quickly, or the City has had to take people to court. An annual affidavit of occupancy has to be filed through RAAP process so there is monitoring through the Planning Department in that way.

Ms. Moss said some localities have offered tax exemptions for creating affordable accessory units. She asked if that has been considered. Ald. Hess-Mahan said he docketed an item to that affect and is still waiting to be taken up. He said the AAIP offered up to \$90K to create units and they felt it should be included in the subsidized housing inventory (SHI) for purposes of 40B. There are a number of communities in the state that have processes for subsidies as small as \$2K or no subsidy at all but have a

permitting process which includes signing an agreement that for a term of years the accessory unit will be kept affordable. That housing can be, does not have to be, included in the SHI.

*Ald. Shapiro* asked how many units might be created in the City if all those proposed amendments passed. *Ald. Hess-Mahan* said the original subcommittee in 1987 worked on this and the idea was to allow up to 10% of the units in the city (around 3,000). The current ordinance has overlay districts that limit the number of units by requiring stricter guidelines. These are primarily located around educational institutions in the City. *Ald. Hess-Mahan* was thinking it could be 100 or less.

*Ald. Swiston* asked if these restrictions would increase the number of accessory apartments and thereby decrease the stock of single family homes.

*Ald. Hess-Mahan* explained that the BOA moved away from the setback requirements and open space requirements regarding how much of the lot could be covered with a house and went to the FAR structure. This is gross floor area divided into the total lot size. One of the problems of the current FAR ordinance is that one could build a detached garage up to a certain size by-right. But if it is attached to the house and the house is near FAR, a special permit to exceed the FAR would be required. This is something being addressed by the FAR task force. Footnote 7, or the 50% demo rule stated that if 50% of the house was demolished, you could build up to the setbacks with some dimensional requirements. Some people have been tripled or quadrupled the size of their houses. The Board took steps to mitigate that but that brought on problems for those who live on small lots. This ordinance amendment negates the absurd situation where a neighbor can double the size of their single family house, but prevent you from adding an accessory apartment to yours. *Ald. Baker* said that the accessory apartment adds another living unit, however, while increasing the size of a single family home does not.

*Ald. Baker* said the overlay districts were also established because the subcommittee looked at the distribution of opportunity. Part of the difference is that there are parts of the city that have larger lot size and larger building envelopes. Part of the challenge was how to have a distribution of the opportunity that was roughly the same across the city.

*David Norton* said he has seen many illegal apartments and he has seen the good and the bad. He said when he finds an apartment inside an owner occupied home, they are often less than 400 square feet. Under some circumstances, these homeowners could get a special permit, but not always because of their district. They end up ripping out a great little accessory apartment. He asked them to consider lowering the square footage requirement because many people don't want to develop more of their home than that. He has found that some of these apartments are very nice, usable and safe.

**Public Comment**

*Valerie Pontiff, 27 Waban Hill Road, Chestnut Hill.*

Ms. Pontiff said she felt the majority of the opinion may not be present at this meeting. She thought she better represented the average resident of Newton. She said her husband is a professor at Boston College and she owns a commercial real estate company, and they have two children aged 4 and 6. Her business office is in Newton. She said the literature regarding this item indicated that multi family zones were under consideration. She said she noted that single family zones were also being discussed and the citizenry would be much more concerned about this. She said the agenda only said multi family zones only were going to be considered. She said they need to take the long view. Changes that amount to up zoning are pervasive. Everyone wants to up zone and no one wants to down zone. She said there would be a "bunch of new families" in the schools with no way to pay for them. She said there would be no funds to support the families that would move into the units. She said that housing students in the units would be a problem. There has been pressure on Boston College to house students on their own campus. She said it was an inconsistent message to then provide student housing off campus.

She said an accessory unit would turn a single family into a two family. Then the two family owner would go to the zoning board to get it zoned a multi family. Then the neighbors would want to be zoned multi family as well. She said this is not what the people of Newton want. Ms. Pontiff said there was neighbor on her street who is a widow with a huge house. She may or may not be able to afford it. She parks 4 cars in her front yard and 4 cars in her back yard for her tenants. Ms. Pontiff said there is a family living there whose child who is going to be in school with Ms. Pontiff's daughter. Ms. Pontiff reports that this widow has multiple families all over her single family residence. She also said the neighbors really like her and they feel bad but all the neighbors tell each other to report her. Ms. Pontiff said her entire neighborhood is paying through lost property value because this widow wants 8 unrelated people renting in her house.

*Brooke Lipsitt, 54 Kirkstall Road, Newton.* Ms. Lipsitt said she is representing U-CHAN (Uniting Citizens for Housing Affordability in Newton). U-CHAN is an organization that is almost 10 years old. One of the first issues they started thinking about was the accessory apartment situation. They worked with Ald. Hess-Mahan to come up with the Accessory Apartment Incentive Program (AAIP) which unfortunately did not work. However, the reason they worked on it was to be sure that funds, legal representation and support were not the issues keeping people from creating accessory apartments. The summary of reasons given for nonparticipation in the AAIP program was provided to the committee. One hundred and eighty of the three hundred and fifty people that applied to the AAIP were surveyed about their reasons for not ultimately participating. More than 25% are issues that would be resolved by the changes proposed. An even greater problem is that of the lots sizes in Table 30-8. There is no proposal in front of the committee to modify that table. She said it was clearly a problem to be addressed. She knows that the Board is revisiting the FAR issue and until they have made appropriate

changes to the FAR requirements, it would not be timely to address changes Table 30-8. Ms. Lipsitt said when the Board is ready for that, the board at U-CHAN would be pleased to work with them. She felt the entire community will benefit by having more, safe, legal, accommodating accessory apartments in the City.

*Leslie Burg, 75 Fuller Terrace, Newton.* Ms. Burg said she is a member of the Planning Board. She has recused herself from the Planning Board's deliberations and vote on this item because she has been working on this for over a year as co-chair of the housing Committee of the League of Women Voters. **The League's comments are attached to this report.**

Ald. Baker asked if the League had any sense about the number of illegal units in the City. He said the reason they worked up the accessory apartment ordinance was to make units safe and legal. She said that granting some form of amnesty might be helpful in having people come forward to make their units legal. Ald. Johnson said this issue was not included in the discussion this evening.

*Gail Flackett, 20 Orient Ave., Newton Centre.* Ms. Flackett said she is the former president of the now defunct Community Living Network (CLN). She is sad they had to disband but they are proud of their two homes which fit in very nicely with the character of both neighborhoods. The one area they feel they did not accomplish as much as they would have liked is accessory apartments. It was a commitment of their program. She thanked the proponents for taking up the cause. Their focus has been on elders that can benefit mentally and physically by staying in their own homes and having other people in an accessory apartment who could help them financially and emotionally. The view of CLN was never that accessory units were a way to make huge amounts of money. They have met a lot of people who did not have the wherewithal to make those kinds of arrangements. She is happy that it is before the City to work on making accessory units more easily attainable.

*Francis Shoals, 163 Cypress St., Newton Centre.* Ms Shoals said she was in support of the proposed amendments. She felt it was important to make changes to keep Newton a diverse community. She was particularly interested in the screening aspect for multiple cars which are more of a problem around the City in general.

Ald. Hess-Mahan asked Ald. Johnson to poll the audience to see where they stood in terms of support or opposition. The audience was unanimous in its support.

Ald. Johnson canceled the working session until the next scheduled meeting.

**PUBLIC HEARING CLOSED**

## Zoning and Planning Committee

Public Hearing  
February 22, 2010

## Public Hearing Petition #164-09

#164-09 A/D, HESS, MAHAM proposing the following amendments to Chapter 30 of the City of Newton Revised Zoning Ord., as amended, 2007, relative to accessory apartments:

- (1) Amend Sections 30-8(d)(1), 30-8(f)(1a), 30-9(h)(1), and 30-9(h)(1a) to explicitly allow the homeowner to live in the accessory apartment;
- (2) Amend Section 30-9(h)(1) and 30-9(h)(2) to allow accessory apartments in a detached structure associated with a single-family residence in a Multi-Residence 1 and Multi-Residence 2 district and to clarify that accessory apartments are allowed in detached structures associated with two-family residences; and amend 30-9(h)(1) to clarify that a single-family dwelling located in a Multi-Residence 1 or Multi-Residence 2 district may be divided into a two-family dwelling according to other provisions of the zoning ordinance;
- (3) Amend the provisions of Sections 30-8(d)(1)(b) and 30-9(h)(1)(b) to allow accessory apartments in residential buildings built 10 or more years before an application for a permit is submitted;
- (4) Delete the provisions of Sections 30-8(d)(1)(b) and 30-9(h)(1)(b) that require landscape screening for fewer than 5 parking stalls;
- (5) Amend Sections 30-8(d)(1)(d), 30-8(f)(1a), 30-8(d)(2)(b), 30-9(h)(1)(d), and 30-9(h)(1)(e) to allow limited exterior alterations or additions, subject to FAR or other dimensional controls, to accommodate an accessory apartment; amend the conditions, where a special permit is required, for approval of exterior alterations or additions; and to remove the time limit before which additions and exterior alterations must be completed to meet the requirements of Table 30-8;
- (6) Amend 30-1, definition of "accessory apartment" to be consistent with the changes listed above.

### Current Accessory Apartment Ordinance

- **30-8(d)(1):** As-of-right for single-family homes in SR districts (see also Sec. 30-22, RAAP Process)
- **30-8(d)(2):** By special permit for two-family homes and detached structures in SR districts and for certain single-family homes in SR districts
- **30-8(h)(1):** By special permit for two-family homes and detached structures in MR districts

### Proposed Amendments

1. Allow homeowner to live in apartment OR main dwelling
2. Allow accessory apartments in single-family homes in MR districts
3. Allow accessory apartments in buildings 10 years old or more rather than buildings that predate 1989
4. Delete screening requirement for parking for accessory apartments
5. Allow exterior alterations to accommodate apartments  
Allow owner to live in apartment or main dwelling
6. Allow apartments in units 10 years old or more rather

### Proposed Amendment #1:

*Allow homeowner to live in the accessory apartment*

- **Current:** Zoning interpretation is that owner must reside in main dwelling
- **Proposed:** Owner can reside in either main dwelling or accessory apartment

### Proposed Amendment #1:

*Allow homeowner to live in the accessory apartment*

**30-8(d)(1)** An accessory apartment is allowed in an ~~owner-occupied~~ single family dwelling in accordance with the procedures of section 30-22, as applicable, and subject to section 30-15, provided that:

- a) The accessory apartment is located within a single family dwelling and the owner of the single family dwelling occupies either the dwelling or the accessory apartment. The building in which the accessory apartment is located is an owner-occupied single family dwelling;

**Proposed Amendment #1:**  
*Allow homeowner to live in the accessory apartment*

**30-9(h)(1)** The board of aldermen may grant a special permit for an accessory apartment in a two-family structure or in a detached structure associated with either a single-family or two-family structure in accordance with the procedure in section 30-24 provided that:\*

- a) The accessory apartment is located in a single family or two family dwelling or detached structure, and the owner of the dwelling occupies either the dwelling or the accessory apartment, building in which the accessory apartment is located is an owner occupied two family dwelling.

**Proposed amendment #2:**  
*Allow accessory apartments in single-family homes located in Multi-Residence districts*

• **Current:** Single family homes and their accessory structures located in MF districts are *not* eligible for accessory apartments, but single-family homes in MF districts CAN be divided into two-family homes as-of-right

- **Proposed:**
  - Allow accessory apartments in **detached structures** associated with single-family homes in MR districts;
  - Clarify that single-family homes can be divided into two-family homes in MR districts

**Proposed Amendment #2:**  
*Allow accessory apartments in single-family homes located in Multi-Residence districts*

**30-9(h)(1)** The board of aldermen may grant a special permit for an accessory apartment in a two-family structure or in a detached structure associated with either a single-family or two-family structure in accordance with the procedure in section 30-24 provided that:\*

- a) The accessory apartment is located in a single family or two family dwelling or detached structure, and the owner of the dwelling occupies either the dwelling or the accessory apartment, building in which the accessory apartment is located is an owner occupied two family dwelling.

**Proposed Amendment #3:** *Allow accessory apartments in dwellings built 10 or more years ago*

- **Current:** Accessory apartments are only allowed in dwellings built before 1989
- **Proposed:** Allow accessory apartments only if dwelling was built ten or more years before application
- **Note:** applies to main dwelling only, not accessory structure -- accessory structure need not be 10 years old

**Proposed Amendment #3:**  
*Allow accessory apartments in dwellings built 10 or more years ago*

**30-8(d)(1)b)** The single family dwelling was constructed ten or more years prior to the date of application for permit to construct an accessory apartment under this section as evidenced by a Certificate of Occupancy for the original construction of the dwelling, or, where no such certificate is available, provided that there is other evidence of lawful occupancy of the existing structure on or before a date at least ten years prior to the date of application; ~~on or before January 1, 1989;~~

**Proposed Amendment #3:**  
*Allow accessory apartments in dwellings built 10 or more years ago*

**30-9(h)(1)b)** The two family dwelling was constructed ten or more years prior to the date of application for permit to construct an accessory apartment under this section as evidenced by a Certificate of Occupancy for the original construction of the dwelling, or, where no such certificate is available, provided that there is other evidence of lawful occupancy of the existing structure on or before a date at least ten years prior to the date of application; ~~on or before January 1, 1989;~~



**Proposed Amendment #3:**

*Allow accessory apartments in dwellings built 10 or more years ago*

• **New Footnote 30-9(h)(1):**

\* A single-family dwelling located in a Multi-Residence 1 or Multi-Residence 2 district may be divided into a two-family dwelling to accommodate a second dwelling unit, subject to compliance with the relevant requirements of the zoning ordinance.

**Proposed amendment #4: Delete requirement that parking for accessory structures be screened**

• **Current:** An accessory apartment must have one parking stall, and stall must be screened according to requirements typically reserved for parking facilities for 5 or more vehicles

• **Proposed:** Remove screening requirement

• **Note:**

- Current screening involves 5' wide strip of shrubs or trees, walls or fences with 3' landscaped strips, or 3'w x 18'h berms
- Two-family homes with accessory unit would have to provide 5 stalls so screening would apply

**Proposed amendment #4: Delete requirement that parking for accessory structures be screened**

- RAAP process allows Planning Director to consider screening when reviewing an application for accessory apartment (as-of-right process)

30-22(c)(1) The director of planning and development shall review said plan for compliance with section 30-8(d)(1). Further, the director may consider the application in light of the criteria set forth below:

b) Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between any existing or proposed structures and the street shall be discouraged;

**Proposed amendment #4: Delete requirement that parking for accessory structures be screened**

~~30-8(d)(1)h) Parking as required by sections 30-19(d)(19) and 30-19(g), and landscape screening as required by section 30-19(i)(1) shall be provided, regardless of the number of parking stalls;~~

~~30-9(h)(1)hg) Parking as required by sections 30-19(d)(19) and 30-19(g), and landscape screening as required by section 30-19(i)(1) shall be provided, regardless of the number of stalls;~~

**Proposed amendment #4: Delete requirement that parking for accessory structures be screened**

• If some screening is desired by the Committee, language from RAAP could be modified for use in special permit sections 30-8(d)(2) and 30-9(h)(1), as follows:

The board of aldermen may require that parking be screened from adjoining premises or the street by walls, fences, plantings, or other means. Location of parking between any existing or proposed structures and the street shall be discouraged.

**Proposed Amendment #5:**

*Allow exterior alterations, subject to FAR*

• **Current:** The only exterior alterations that are allowed within two (MR) or four (SR) years of application for accessory apartment permit involve changes to doors, windows, landings pertaining to building, health, and fire codes

• **Proposed:** Allow exterior alterations, with entire house subject to FAR requirements; remove lookback period

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- Exterior changes to as-of-right section:
  - *Additional language suggested to ensure that RAAP is not more permissive than special permit with regard to exterior changes*

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- 30-8(d)(1) (Single Residence District, RAAP Process)**
- d) Exterior alterations required to meet applicable building, fire or health codes are permitted as listed here: doors; windows; no more than two exterior landings which may be covered, which do not exceed fifty (50) square feet in area, and are not within the setback area; stairs which are not within the setback; roof and wall venting.;
  - e) Exterior additions or alterations for any other purpose are permitted provided that the dwelling structure complies with the minimum lot size and building size requirements in Table 30-8 and the frontage, setback, floor area ratio, building height, story, building coverage, and open space requirements set out in Sec. 30-15, Table 1.\*
  - f) Additions and exterior alterations to the structure made within four (4) years prior to application may not be applied towards meeting the requirements of Table 30-8.\*

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- 30-22(c)(1)e) (Single Residence District, RAAP Process)**
- (1) The director of planning and development shall review said plan for compliance with section 30-8(d)(1). Further, the director may consider the application in light of the criteria set forth below:
- e) The exterior appearance of the dwelling in which the accessory apartment is located is in keeping with the appearance of a single-family home.

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- Exterior changes to special permit accessory apartments:
  - *As drafted, owners of already-nonconforming homes could not get a special permit to create an addition for an accessory apartment – this is more restrictive than current ordinance*
  - *However, owners of nonconforming homes could apply for a special permit for an addition and then later apply for a permit for an accessory apartment – but Committee may wish to consider the issue of nonconforming homes*

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- 30-8(d)(2) (Single Residence District Special Permit)**
- b) Exterior alterations required to meet applicable building, fire or health codes are permitted if in keeping with the architectural integrity of the structure and the residential character of the neighborhood. Exterior additions or alterations for any other purpose are permitted provided that the structure complies with the minimum lot size and building size requirements in Table 30-8 and the frontage, setback, floor area ratio, building height, story, building coverage, and open space requirements set out in Sec. 30-15, Table 1 and Section 30-15(u)(4) and provided that the additions or alterations are in keeping with the architectural integrity of the structure and the residential character of the neighborhood. No additions or exterior alterations beyond those in the final grant of a petition may be proposed to enlarge the accessory apartment within two (2) years of the receipt of a special permit hereunder from the board of aldermen.

\* Blue text NOT in memo

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

- 30-8(h)(1) (Multi Residence District Special Permit)**
- d) Exterior alterations required to meet applicable building, fire or health codes are permitted if in keeping with the architectural integrity of the structure and the residential character of the neighborhood. Exterior additions or alterations for any other purpose are permitted provided that the structure complies with the minimum lot size and building size requirements in Table 30-8 and the frontage, setback, floor area ratio, building height, story, building coverage, and open space requirements set out in Sec. 30-15, Table 1 and Section 30-15(u)(4) and provided that the additions or alterations are in keeping with the architectural integrity of the structure and the residential character of the neighborhood. No additions or exterior alterations beyond those in the final grant of a petition may be proposed to enlarge the accessory apartment within two (2) years of the receipt of a special permit hereunder from the board of aldermen.

\* Blue text NOT in memo

**Proposed Amendment #5:**  
*Allow exterior alterations, subject to FAR*

**30-8(h)(1) {Multi Residence District Special Permit}**

- e) ~~Additions and exterior alterations to the structure made within two (2) years prior to application may not be applied towards meeting the requirements of Table 30-8;~~

**Proposed Amendment #6:**  
*Amend definition to support previous changes*

**Sec. 30-1. Definitions.**

*Accessory apartment:* A separate dwelling unit located in a building originally constructed as a single family or two-family dwelling or in a detached building located on the same lot as the single family or two-family dwelling, provided that such separate dwelling unit has been established pursuant to the provisions of section 30-8(d) and 30-9(h) of this ordinance.

LWVN Statement of Support for the Proposed Amendments to Newton's Accessory Apartment Ordinance (#164-09) Public Hearing -- February 22, 2010

Newton's League of Women Voters has long supported the creation of accessory apartments within established homes. They are in keeping with explicitly stated Land Use, Zoning, and Housing positions taken by the League and we recognize the many benefits they can provide to our community. These "in-law apartments", as they are sometimes called, are often affordable to lower and moderate-income families. As such, they increase the stock of affordable housing in the City, an outcome that aligns with our national, state, and local support for policies "to provide a decent home and a suitable living environment for every American family"

Newton's Accessory Apartment Ordinance has been in place for many years with very few takers. And the 2006 Accessory Apartment Incentive Plan, designed especially to provide homeowners assistance with creating an affordable accessory apartment, has not succeeded either. Over 350 residents expressed interest in creating an accessory apartment using the program, but ultimately none participated and no units were added.

The Community Living Network, which administered the program, recorded and tallied the reasons why none of those expressing interest participated. The five proposed amendments to the Ordinance (petition #164-09) were crafted expressly with the intent of easing the restrictions that homeowners found so onerous they decided not to participate in the program.

Docketed as a separate item is the request for a study of building lot size and dimensional requirements for accessory apartments. While the five proposed amendments will address some of the obstacles to creating accessory apartments, the dimensional requirements have also proven to be a major impediment to many homeowners. We recognize that further study and recommendations by the Planning Department are needed to ensure that changes in the lot and building size requirements will promote the creation of accessory apartments where appropriate, consistent with

*Newton's Comprehensive Plan*, which was approved by the Board of Aldermen in November 2007. Therefore, we strongly urge that such a study be undertaken.

The League believes that making the Accessory Apartment ordinance less restrictive and more flexible will encourage interested homeowners to create more affordable, accessory units in the City. In addition to affordability, such units allow homeowners who wish to, to downsize while remaining in their homes. They also provide housing for a population that is aging and often comprises smaller and more diverse households, and do so without the expense, environmental impacts and increased density that new construction can cause. The increased income a homeowner can realize by renting an accessory apartment can help defray house maintenance costs and permit her to "age in place". It can also assist with the upkeep of an historic home.

Finally, we hope that passage of these amendments provides incentives for homeowners of currently illegal accessory units, of which the Planning Department estimates there are 1000 to 1500 in the City, to legalize them and be certain they meet safety, health, and building codes. The recent fire in another local community that unfortunately took two lives occurred in just such an illegal accessory apartment.

For all these reasons, Newton's League of Women Voters strongly supports the five proposed amendments to the Accessory Apartment Ordinance, detailed in docket item #164-09, and urges the Zoning and Planning Committee, the Planning and Development Board, and the Board of Aldermen to approve them in a timely fashion.

Terry Yoffie  
President  
League of Women Voters, Newton