

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 22, 2010

Room 202  
7:45 PM

**ITEMS SCHEDULED FOR DISCUSSION:**

- #164-09      ALD. HESS-MAHAN proposing the following amendments to the accessory apartment ordinances: (1) amend Sections 30-8(d)(1)a) and 30-9(h)(1)a) to explicitly allow the homeowner to live in the accessory apartment; (2) amend Section 30-9(h)(1) to allow accessory apartments in a single family residence located in Multi Residence 1 and Multi Residence 2 zoned districts; and (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), 20-8(d)(1)(e), 30-8(d)(2)(b) and 30-9(h)(1)(d) to allow exterior alterations and add that any exterior alterations, other than alterations required for safety, are subject to FAR provisions. [06/09/09 @ 4:55 PM]
- #62-10      ALD. JOHNSON, LAPPIN, CROSSLEY, DANBERG AND HESS-MAHAN proposing a RESOLUTION to His Honor the Mayor to establish a Zoning Reform Scoping Group, to be appointed by the Mayor and the Board President in consultation with the leadership of the Land Use and Zoning & Planning Committees, for the purpose of developing a plan to reform Newton's zoning code. Responsibilities would include, but not be limited to, determining long and short term objectives, identifying funding options, researching best practices of communities that have undergone zoning reform and identifying potential resources to assist in the process. [02/23/10 @ 6:46 PM]
- #18-10      ALD. YATES requesting a report from the Conservation Commission as to whether the Commission feels that the ticketing process for violation of wetlands laws proposed in docket #168-02, approved by Zoning & Planning in 2004 and subsequently voted No Action Necessary by the Board in 2009, would still be valuable in preserving the City's environment. [01/04/10 @ 8:16 PM]

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

- #61-10      ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #60-10      ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [02/23/10 @ 3:24 PM]
- #46-10      ALD. CROSSLEY, HESS-MAHAN & LINSKY requesting adoption of an ordinance to provide for as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities in designated locations in order to satisfy the requirements to qualify as a Green Community under MGL Chapter 25A, §10 (c). [02/09/10 @ 7:25 PM]
- #46-10(2)      ALD. CROSSLEY, HESS-MAHAN & LINSKY requesting adoption of an ordinance to create an expedited application and permitting process under which renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities may be sited within the municipality and which shall not exceed one year from the date of initial application to the date of final approval, in order to satisfy the requirements to qualify as a Green Community under MGL Chapter 25A, §10(c). [02/09/10 @ 7:25 PM]
- #30-10(2)      POST AUDIT & OVERSIGHT COMMITTEE requesting a discussion with the Planning & Development Department relative to the governance process of the Newton Community Development Authority (NCDA), including recommendations and potential changes to the NCDA. [01/26/09 @ 9:00 PM]
- #411-09      ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that

indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.

- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

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

- #391-09(2) ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

- #376-09 HIS HONOR THE MAYOR submitting the FY11-15 Capital Improvement Program, totaling \$140,377,285 and the FY10 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.
- #207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]
- #122-09 ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.
- #475-08 ALD. HESS-MAHAN, DANBERG, JOHNSON, SWISTON, & PARKER proposing that the City of Newton accept the provisions of GL chapter 43D, a local option that allows municipalities to provide an expedited permitting process and promote targeted economic development. [12/09/08 @ 9:41 AM]
- #474-08 ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals

and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12/09/08 @ 3:26 PM]

- #336-08      ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9/12/08 @ 10:31 AM]
  
- #150-08      ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4/15/08 @ 2:17PM]
  
- #365-06      ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
  
- #288-06      ALD. MANSFIELD, DANBERG, PARKER proposing that Sec 30-11(a), (b), and (d) of Chapter 30 be amended to allow banks and other financial institutions only by special permit in Business 1, 2 , 3 and 4 districts.

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

- #48-06      ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**
  
- #10-06      ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.
  
- #440-04      ALD. JOHNSON, BAKER & LAPPIN proposing a definition of “accessory structure” which will include mechanical equipment.
  
- #294-03      ALD. BAKER, YATES, JOHNSON AND MANSFIELD requesting analysis and discussion of possible remedies for demolition of modest housing and replacement with oversized structures out of character with the surrounding neighborhood, including examining the experience of other communities, including those out of state, who have worked to address this problem. **(Recommitted by Full Board 8-14-06)**
  
- #133-03      ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.

- #217-00      ALD. YATES requesting that Chapter 30 be amended to require a special permit for the demolition of a structure aged 100 years or more, containing one or more residential units in any residential district.
- #20-99      ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.
- # 7-99      ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- #333-97(2)      ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM]

Respectfully submitted,

Marcia Johnson, Chairman



**CITY OF NEWTON, MASSACHUSETTS**  
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Setti D. Warren  
Mayor

Public Hearing Date: February 22, 2010 (closed)  
Zoning and Planning Date: April 26, 2010  
Board of Aldermen Action Date: May 3, 2010  
90-Day Expiration Date: May 24, 2010

DATE: March 18, 2010

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

FROM: Candace Havens, Acting Director of Planning and Development *CH*  
Jennifer Molinsky, Principal Planner / Zoning and Planning Coordinator *JHM*

SUBJECT: **WORKING SESSION**

ALD. HESS-MAHAN proposing the following amendments to the accessory apartment ordinances: (1) amend Sections 30-8(d)(1)a and 30-9(h)(1)a to explicitly allow the homeowner to live in the accessory apartment; (2) amend Section 30-9(h)(1) to allow accessory apartments in a single family residence located in Multi Residence 1 and Multi Residence 2 zoned districts; and (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 and 30-9(h)(1)d to allow exterior alterations and add that any exterior alterations, other than alterations required for safety, are subject to FAR provisions.

CC: Board of Aldermen  
Mayor Setti D. Warren  
Planning and Development Board  
John Lojek, Commissioner of Inspectional Services  
Marie Lawlor, Assistant City Solicitor

Petition #64-09 was heard on February 22 and discussed in Working Session on March 8<sup>th</sup>. After that meeting, the Planning Department was asked by Aids. Johnson and Hess-Mahan to conduct additional research on proposed amendments #3 and #5, regarding the lookback period and exterior changes. In preparing this memo, we examined ordinances from a number of Massachusetts municipalities.

A number of Massachusetts communities have accessory apartment ordinances. These vary by community according to the policy goals and priorities of the town or city. Policy goals include increasing affordable housing supply (a number of ordinances contain affordability restrictions as defined by MGL Chapter 40B), creating more choice in the type of housing, offering options for aging in place and assisting families, and creating incentives for historic preservation.

Newton's original ordinance seems to have been based on historic preservation motivations, while the amendments proposed in #164-09 are more focused on increasing housing diversity and on aging in place. There is also the additional value, expressed by several members of the Zoning and Planning Committee at the last meeting on March 8<sup>th</sup>, of protecting the existing character of residential housing stock and neighborhoods. In preparing this additional research, the Planning Department sought to identify language in use in other communities that would support all of Newton's goals, recognizing, however, that the objectives of preserving the existing aesthetics of homes and neighborhoods and increasing housing choice and options for families may not always be directly compatible.

**Amendment #3: Allow accessory apartments in homes 10 or more years old (referred to as a 10 year "lookback"), as opposed to only in homes built before 1989.**

- **Other communities:** Communities differ significantly in their use of a "lookback" The most restrictive identified in the Department's research is Cambridge's ordinance, which allows accessory apartments in their Residence A district (characterized primarily by single-family homes) only in homes constructed *before 1940* that have been virtually unchanged since (they have to have had less than 250 square feet total additions since that time). In Lincoln, a home must be at least *10 years old* (unless the homeowner is willing to add affordability restrictions); in Lexington, *five years* for detached structures (available by special permit) and by-right accessory apartments inside the main dwelling (with no lookback for apartments within the main dwelling approved by special permit). Several communities have no lookback period at all. Oak Bluffs has a *residency* lookback, requiring that an owner reside in the home for at least five years prior to applying for an apartment permit.
- **Current proposal:** The current proposal of a 10-year lookback matches the lookback period in the recently-adopted floor area ratio "bonus" (Sec. 30-15(u)) The lookback in this case was based on the idea that 10 years was a significant enough time to ensure that homes would not be designed with the idea of immediate expansion, but not so restrictive as to prevent changes over time. Ten years is also in line with other communities that have a lookback (except for Cambridge, whose goals seem to be more the preservation of a specific set of homes built before 1940). Newton's original lookback date of 1989 was likely chosen, in 1989, as a way to demarcate existing housing stock (where accessory apartments would be allowed) and future housing stock (where they would not). In the early days of the program, the 1989 date would have allowed accessory apartments in very *recent* construction, so in some respects, a 10-year lookback is more conservative than the original ordinance was in its early years.
- **Alternative ideas:** The Department found no other obvious choices for a lookback period. If the concern is historic preservation, it would be appropriate to adopt a date fixed in time that protects the specific housing stock that is of interest, but the discussion surrounding the lookback period suggests that the goal is more to prevent accessory apartments in new or recent construction. A

lookback in the 10 to 15 year range would prevent this, based on the assumption that a 10 or 15 year old house is no longer “new” but is by then a fully accepted part of the landscape. (For a perspective on what this means as a percentage of total housing stock, the single-family housing stock constructed in the last five years equals 1% of all single-family housing stock in the City; in the last 10 years, it equals 2%, and in the last three years, it equals 3%.)

It is possible to require that accessory structures *themselves* be a certain age before they qualify as a location for an accessory apartment, perhaps five years; as currently worded, accessory structures can be newly constructed as long as the main dwelling is 10 years old.

Another possibility is to allow the lookback to be reduced by special permit (for example, requiring a 15-year lookback but allowing it to be reduced to 10 years by special permit). If the Committee wished to pursue this option, the special permit section would have to be reworded to allow someone who does not meet the lookback requirement to seek a special permit (currently, the lookback is non-negotiable).

#### **Amendment #5: Exterior Changes**

Since exterior changes have not been discussed by the Committee in depth, it is not clear what the specific concerns are: e.g. that single-family homes will begin to resemble two-family homes; that some of the features needed to accommodate accessory units may be unsightly to abutters (e.g. fire escapes); and/or that additions to accommodate apartments will increase the overall density of specific homes and/or neighborhoods. Though there is some overlap, the first two concerns relate mostly to *design features*, while the third relates most to *density*. The research below is divided into these two categories:

- Design controls, other communities: Communities with accessory apartment ordinances limit exterior changes using a variety of mechanisms. The most common is a general statement that a dwelling must continue to resemble a single-family home (since most ordinances allow accessory apartments only in single-family homes). For example, Falmouth’s language reads “The accessory apartment shall be constructed so that to the degree reasonably feasible, the appearance of the building remains that of the single-family residence.” Cambridge states their Zoning Board of Appeals, in granting a special permit for an accessory apartment, may require that “there be no change or minimal change to any face of a building oriented toward a public way or visible from a public way.” Nearly all ordinances that address external appearance use this qualitative language. Restrictions on external changes are much more minimal in the ordinances that require affordability restrictions (per MGL Chapter 40B).

When other ordinances are more specific, the focus is primarily on egress design. Notably, some require that egress stairs must be either enclosed (Lexington) or located to the side or rear of the dwelling and that entries to accessory apartments be located to the side or rear (Lexington, Northampton).



o Sample language from other ordinances:

▪ Overall appearance:

- “The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure (Oak Bluffs);
- “The architectural style shall be in harmony with the prevailing character and scale of buildings in the neighboring area through the use of appropriate building materials, screening, breaks in roof, wall lines, landscaping and other architectural techniques which shall be site specific” (this from Edgartown’s ordinance concerning staff apartments);
- “The alteration or conversion will not result in substantial changes to the exterior of the building which would be inconsistent with the exterior appearance of the building immediately prior to date of the special permit application” (Weston);
- “The exterior design is in harmony with, and maintains the scale of, the neighborhood... The location and design of the accessory unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access or parking of adjacent properties... Windows that impact the privacy of the neighboring side or rear yard have been minimized” (Santa Cruz, CA).

▪ Egress:

- “All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling” (Lexington);
- “Any new entrance shall be located on the side or in the rear of the building” ... “There shall be no enlargements or extensions of the dwelling in connection with any by-right accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of an entryway, or for enclosure of a stairway to a second or third story” (Lexington);
- “Any new entrance shall not be visible from a public way” (adopted from Cambridge);
- “Any new outside entrance to serve an accessory apartment shall be located on the side or in the rear of the building” Northampton);
- “Any new entrance to the residence shall be on the side or rear of the building so long as it meets the requirements of the existing codes” (Edgartown).

Finally, last year, Brookline attempted to pass an accessory apartment ordinance (that ultimately failed at Town Meeting); its draft included two provisions relating to maintaining single-family residential character: the dwelling was to have no more than one mailing address, and it was to have shared utilities (electric, gas, water). Furthermore, Brookline would have prevented an accessory apartment from ever being sold as a condominium.

- Density controls, other communities: Communities also deal with density in a range of ways. Aside from regulating the size of the apartment, main dwelling, and lot (as does Newton), some allow *no exterior changes* except for egress or code alterations, while others strictly regulate the

extent of exterior changes that can be made to accommodate an apartment. Lincoln allows no changes to a home within 10 years of the application for an accessory apartment unless they represent less than 10% of the floor area of the original building, except by special permit or in cases where the applicant agrees to affordability restrictions. Cambridge restricts accessory apartments only to essentially-unchanged homes built before 1940, but it will allow these properties to be altered by special permit up to allowable FAR to accommodate an accessory apartment. Some ordinances leave the density controls vague: Edgartown, for example, states that increased density may be approved by special permit if "the increase will not have a material detrimental effect on surrounding properties." Again, there are fewer controls on exterior changes in the ordinances that require affordability restrictions.

- Alternative ideas for Newton regarding exterior alterations and additions: Drawing from the research described above, the Planning Department suggests consideration of the following options:
  - As-of-right "RAAP" apartments:
    - Consider limiting additions (including additions to enclose egress stairs) to a *specific size*, such as a maximum of 10% of the floor area of the original building, up to some maximum (perhaps 200 to 300 square feet) and up to allowable FAR; or, borrowing language from the current special permit sections relating to accessory apartments (Secs. 30-8(d)(2)b and 30-9(h)(1)d)), a maximum of 250 square feet, which is less than the minimum size of an accessory apartment, or 25% of the floor area of the new unit. If additions are limited to a certain size, it would be necessary to maintain a variation of the current 4-year lookback on additions to ensure that an applicant for an accessory apartment does not exceed this amount by making incremental additions over a short period of years.
    - Consider requiring that staircases leading to second/third floor apartments be enclosed, clad in the same materials as the house, and located on the rear or side of the property. If this change is adopted, there would need to be some accommodation for exterior additions (discussed in the first bullet) in order to accommodate the enclosure.
    - Consider requiring that there be no change to street-facing facades except for alterations required to meet applicable building, health, or fire codes (which would presumably mean a door/window); and requiring that egress doors either be located on the side or rear of the property or share a single front door and vestibule with the main dwelling so that the property appears as a single-family property with one front door. Language might also be included in the RAAP section regarding the appearance of single-family home (as previously suggested).
  - Special permits:
    - Consider using either the same size limit for as-of-right apartments (there is currently a size limit of 250 sq. ft. or 25% of the size of the new apartment) or raising it, e.g. to 400 sq. ft. (the minimum size of an accessory apartment) or 25% of the size of the

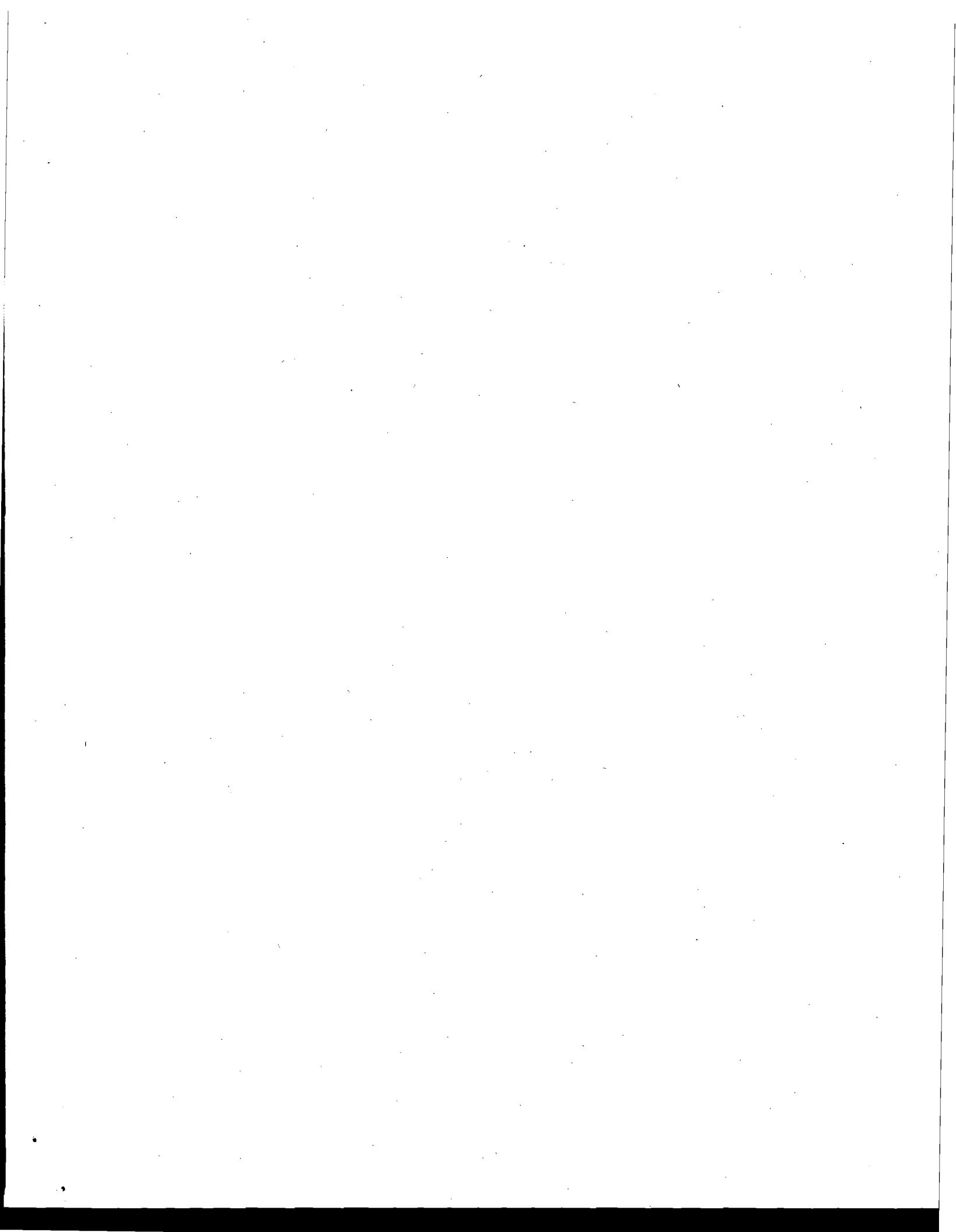
new apartment. It is also possible to have no limit other than FAR, as proposed, which might be more acceptable if the size of apartments is limited in the as-of-right section and anyone seeking a larger addition to accommodate an accessory apartment can seek one through the special permit process. Language might also be added stating that the Board must find that any addition shall not have a material detrimental impact on surrounding properties. Again, if additions are capped at a certain size, there would need to be a lookback (currently either two or four years) to prevent incremental additions that would exceed the limit.

- Consider inclusion of language as in the above "As of Right" section regarding egress and façade design. Language about "maintaining appearance of a single family (or two-family, depending on the section) can also be included, though the more quantitative measures and design direction are likely to most easily implemented.
- Finally, the Planning Department recommends that the Committee consider how the amendments relating to exterior changes should affect **nonconforming structures**. As currently proposed, the amendment would not allow a structure with any nonconformity – e.g. setback problem – to get a special permit for an exterior alteration or addition to accommodate an accessory apartment. If the Committee wished to allow a nonconforming structure to seek a special permit for an alteration (e.g. door or window for egress) or an addition, **language can be added to the special permit sections stating that, if the home is lawfully nonconforming, the addition or alteration may be allowed provided it does not increase the nonconforming nature of the structure**. The Planning Department suggests the following language for 30-8(d)(2)b) and 30-9(h)(1)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) **or, if lawfully nonconforming, provided that the addition or alteration does not increase the nonconforming nature of the structure**; 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.*

**MA Communities Researched:**

<b>Community</b>	<b>Accessory Apartment Ordinance?</b>
Amherst	None found
Arlington	Allows SF conversion to apartments but not explicitly "accessory apartments"
Barnstable	Has affordability restrictions, amnesty program
Belmont	None found
Brookline	Does not have; tried to pass one last year but it failed at Town Meeting. Does have SR conversion district with some helpful examples. Also allows apartments for domestic help.
Cambridge	Yes
Chicopee	None found
Concord	None found
Dennis	None found
Edgartown	Yes; also separate provisions for family-only apartments and staff apartments
Falmouth	Yes
Lexington	Yes
Lincoln	Yes
Medford	None found
Nantucket	Yes
Newburyport	For family members only
Oak Bluffs	Yes
Provincetown	Yes, affordability restrictions
Rockport	None found
Somerville	None found
Waltham	None found
Wellesley	None found
Weston	Yes
Williamstown	None found
Worcester	None found



**Karyn Dean**

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Date sent: Thu, 4 Feb 2010 14:55:41 -0500  
Subject: Re: ZAP meeting Feb 8  
From: Brian Yates <[byates@comteam.org](mailto:byates@comteam.org)>  
To: [aphelps@newtonma.gov](mailto:aphelps@newtonma.gov)  
Copies to: [Mjohnson@newtonma.gov](mailto:Mjohnson@newtonma.gov), Karyn Dean <[kdean@newtonma.gov](mailto:kdean@newtonma.gov)>, Marie Lawlor <[MLawlor@newtonma.gov](mailto:MLawlor@newtonma.gov)>, Jennifer Molinsky <[jmolinsky@newtonma.gov](mailto:jmolinsky@newtonma.gov)>

Dear Ms. Phelps:

Thank for your attention to this matter. I had filed a request for an opinion on this item from the Conservation Commission, and this e-mail fulfills my request. I will pass this e-mail along to the Chair and clerk of the Committee with the request that the item be voted No Action Necessary,

Sincerely,

Alderman Brian Yates

On Thu, Feb 4, 2010 at 2:36 PM, Anne Phelps <[aphelps@newtonma.gov](mailto:aphelps@newtonma.gov)> wrote:

Dear Alderman Yates;

I see that an old agenda item regarding the Commission's request for an ordinance to fine for violations of the wetlands law is still lingering in ZAP. I researched this issue for many months and the Commission is now agreed that they cannot fine for violations of the MA Wetlands Protection Act and its regulations at 310 CMR 10.00, thus this proposed ordinance should be withdrawn. If you need a request from me to ZAP to do so, please let me know.

The Commission can fine for violations of City Ordinance (Sec. 22-22, and regulations they promulgate for use of Conservation Areas (City land under the management of the Conservation Commission). They wish a new ordinance crafted to establish violations punishable by fines under Sec 22-22 and on Conservation lands. The Commission and I have not had time to start drafting such an ordinance.

Thanks for your attention to this matter.

Regards,  
Anne

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