

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, SEPTEMBER 13, 2010

7:45pm- Room 202

**ITEMS SCHEDULED FOR DISCUSSION:**

#89-10(3) HIS HONOR THE MAYOR re-appointing CANDACE HAVENS Interim Director of Planning and Development effective October 1, 2010 until a permanent replacement is hired, but not to exceed 90 days when the temporary appointment may be extended with Board of Aldermen approval pursuant to §3-6 of the City Charter. [9/01/10 @4:48 PM]

Public Hearing assigned for September 27, 2010:

#216-10 KSKIM UBS EQUITY PARTNERS LLC, owners of property at 19-31 Needham Street, proposing that chapter 30 section §30-13(a) *Allowed Uses in Mixed Use I Districts*, be amended by adding a new subsection (5) as follows: ã(5) Service establishment;ö and that existing subsection (5) be re-numbered (6) and that section §30-13(b) *Special Permits in Mixed Use I Districts* be amended by deleting subsection ã(4) service establishment;ö and re-numbering subsequent subsections (4) through (15). 7/26/10 @2:26 PM]

#93-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:31 PM]

#92-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 22-3(a)** of the City of Newton Ordinances governing membership of the Planning Board by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:29 PM]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Kathleen Cahill, 617-796-1125, via email at KCahill@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

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

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

- #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 (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. [8/30/10 @3:19PM]
- #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]
- #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]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of lot area and revising the setback line definition for clarity. [06/01/10 @ 9:25 PM]
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]

- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: "(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;" and renumbering existing subsection (5) as (6). [06/07/10 @ 12:00 PM]
- #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. **(Recommended by Full Board 8-14-06)**
- # 7-99 ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #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.

- #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]
  
- #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]
  
- #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]
  
- #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]

**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**
  
- #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]
  
- #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]
  
- #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.

- #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.
- #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]
- #365-06      ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #10-06      ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.
- #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.
- #114-10      ALD. YATES AND RICE requesting reports from the Conservation Commission and Board of Survey on compliance with condition of permits given to allow the development of the Laura Road subdivision. [04/07/10 @ 10:59 PM]
- #122-09      ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.
- #336-08      ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9/12/08 @10:31 AM]
- #440-04      ALD. JOHNSON, BAKER & LAPPIN proposing a definition of "accessory structure" which will include mechanical equipment.
- #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.

Respectfully Submitted,

Marcia Johnson, Chairman

# PLANNING AND DEVELOPMENT BOARD

1000 Commonwealth Avenue, Newton, Massachusetts 02459

Minutes, June 28, 2010,  
Room 209, City Hall

10 SEP 10 A 8:58

CITY CLERK  
NEWTON, MA 02159

**Full Members Present:**

Joyce Moss, Vice Chair – Acting Chair  
David Banash  
Leslie Burg  
Doug Sweet  
Candace Havens, Interim Planning Director, *ex officio*

**Alternate Members Present:**

Howard Haywood

**Staff Present:**

Juris Alksnitis, Interim Zoning Administrator

**Petition #142-09(3), ZONING & PLANNING COMMITTEE**, proposing that **subsection 30-15(u) of Chapter 30** relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. from July 30, 2010 up to December 31, 2010.

One Board member read the Planning recommendation, noting the support for extension of time along with the suggestion for ISD to track permits and FAR calculations. Two different members expressed both the support and the consensus of the Board in support of the extension for the reasons set out in the Memorandum. D. Sweet made a motion, seconded by D. Banash, to approve Petition #149-09(3) per the Memorandum, and a vote was taken with the members voting as follows:

VOTE: 5 – 0 – 0. Motion was approved.

**Petition # 93-10, ALD. JOHNSON AND SANGIOLO** requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance as follows: Members shall include at least one citizen who has expertise or demonstrated interest in real estate/land-use law, at least one citizen who has expertise or demonstrated interest in planning, at least one citizen who has expertise or demonstrated interest in building construction/development and at least one citizen who has expertise or demonstrated interest in professional design/engineering and at least one citizen who has experience with or demonstrated interest in the zoning process in Newton.

Motion: The Planning and Development Board recommends that the subject petition be revised and that it take into account the following:

1. Encourage multiple means to increase the pool of candidates.
2. Involve a broader range of people.

3. Acknowledge that characteristics such as experience, judgment, discretion, and listening skills may be as important as technical expertise.
4. Baseline criteria for members are a good concept. However, this does not require changing of the ordinance, but should be handled by implementing appropriate administrative guidelines, used by the Mayor at his discretion.

The motion was seconded by L. Burg, and a vote taken with the members voting as follows:

VOIE: 5 – 0 – 0.

The motion was approved.

#93-10      ALD. JOHNSON AND SANGIOLO requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:31 PM]

**PUBLIC HEARING CLOSED**

**NOTE:** The public hearing notice for this item is attached as it has language that varies from the docket item. Ald. Sangiolo explained that there were two reasons this item was docketed. There had been some discussion in the past about perhaps transferring special permit granting authority to the Zoning Board of Appeals (ZBA). Requiring some specific expertise on the ZBA may be a way to allow the Board to feel more comfortable in relinquishing that authority. It may also give added confidence to the public that the decisions for special permits were being granted by non-elected, rather than elected officials, if there were some guidelines in place. Ald. Sangiolo also explained that the Mayor's office was looking for some guidance in the selection process for the various Boards and Commissions. Ald. Sangiolo and Johnson felt that the responsibilities and authority of the ZBA made it an ideal candidate for some guidelines.

Ms. Havens said that the proposed language for this item has evolved from very restrictive to less restrictive based on discussions in Committee. The Planning Dept. is recommending that 2-3 positions reflect a broader group of knowledge areas and can work well together. The other recommendation is that the members be appointed with broad discretion of the Mayor in conjunction with an established process. This process would include various methods of outreach, a description of the responsibilities and mandates of each board, a job description for board members, establishment of relevant qualifications for board members from ordinance and by policy, establishment of guidelines for the mix of background, experience, training, geographic representation and diversity desired for each board, implementation of a recruiting, intake, screening, vetting and approval sequence which results in the appointment of highly qualified and well-suited candidates.

Ald. Johnson opened the public hearing.

**Phil Herr** addressed the Committee. He said that the Planning Department report was excellent and the recommendations seem to imply a work in progress which he supports. He does not think that creating an ordinance is necessary to provide guidance to the Mayor, however. Mr. Herr provided a document which lists the ownership and dwelling type of the ZBA members and the Planning & Development Board members. It is attached to this report. He suggests that perhaps this is an area that should be looked at in terms of diversity of membership.

**David Banash**, Planning & Development Board member, addressed the Committee. He asked Ms. Havens if she had considered the memorandum the Planning Board provided when preparing the Planning Dept. memorandum on this item. Mr. Banash restated the Zoning and Planning Committee Report Monday, June 28, 2010 Page 3



reasons the Planning & Development Board opposed the proposed changes. Please see the attached memo for the details. He said the same issues apply for the ZBA. He also said the board did not think that an ordinance was the proper method to impose any regulations. Mr. Banash also felt that having a housing expert would be helpful with Comprehensive Permits. Ald. Sangiolo said she spoke to a member of the ZBA and in the last 5 years or so, the ZBA dealt with only 3 Comprehensive Permits, and that member did not feel that type of expertise was required.

Ms. Havens said they did take the Planning Board's memo into consideration and the final language has not yet been decided. They have moved from very restrictive to less restrictive language and they are hoping to find a suitable middle ground. Mr. Banash said the Planning Board recommended more than just fine tuning the language. It recommended reconstituting the whole idea into regulations and guidelines instead of an ordinance change. He also wondered what would happen if they were unable to fully staff the board, and therefore, have members that meet all the requirements. Would that invalidate any decisions made by the Board?

Ald. Johnson closed the public hearing and the Committee entered into a working session.

Ald. Johnson said that the appointment process has been a political process and the same members get re-appointed over and over. The new Mayor is looking for some guidance to change the process in general to reach out to the community and to find the most qualified members. She reminded the Committee that at she would be working on a job description and process for these Boards.

Commissioner Lojek said he believes that any board that makes major decisions such as the ZBA should have baseline qualifications for at least some of its members. The work of the board can be quite complex and the members need to understand the various aspects of it. Ms. Moss said she has seen that the process of membership generally sorts itself out naturally. She has not seen anyone apply for these positions that do not have a deep interest or experience in the appropriate areas.

Ald. Fischman said that there needed to be some care in terms of conflict of interests. People with expertise in these areas may be involved in business and projects in Newton which could interfere with their responsibilities on the ZBA. He felt the most important thing was finding a group that worked well together and worked diligently. Ald. Sangiolo noted that she met with a member of the ZBA who said the most important quality for a board member was demonstrated leadership and sound judgment. Ald. Baker agreed. He also said it was important to consider the people looking for zoning relief as well as the people affected by the zoning relief. He said there needs to be consideration for both perspectives.

Zoning and Planning Committee Report Monday, June 28, 2010 Page 4

Ald. Yates said he would like his proposed language which is less restrictive, considered as well:

*"The members of the Board shall so far as practicable be selected to provide expertise in the fields of real estate/land use, law, city planning, community development/human services, architecture/engineering and so far as practicable be selected to provide representation of as many wards as possible."*

Follow Up

Ald. Johnson will work on the job description and documentation for process for the chairs of the ZBA and the Planning Board to look at. She will bring this item back to Committee in the fall.

The Planning Board members excused themselves to deliberate the public hearing items. They are required to provide their report within 20 days. It was not received at the time of this report.

#92-10      ALD. JOHNSON AND SANGIOLO requesting revision of **Section 22-3(a)** of the City of Newton Ordinances governing membership of the Planning Board by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:29 PM]

**ACTION:**      **HELD 8-0**

**NOTE:** Ald. Johnson noted that Ald. Yates provided some alternative language for the selection criteria for the Planning & Development Board as follows:

*The members of the board shall so far as practicable be selected to provide expertise in the fields of real estate/land use, law, city planning, community development/human services, architecture/engineering and so far as practicable be selected to provide representation from as many wars as possible.*

Ald. Yates explained that he crafted this language to offer a more open-ended option to find people with some expertise but not be hamstrung by overly specific language.

Models from Other Communities

Ms. Havens said there were four models that they found in neighboring municipalities in regard to selecting candidates for Planning Boards which include:

1.      *Rely on administrative procedures* (Newton).
2.      *Incorporate limited board member composition requirements* (Brookline). This would include language stating baseline requirements for professions, education or experience applicable to a limited number of member positions.
3.      *Incorporate more extensive member composition requirements* (Urban Design Commission approach). This would include language establishing the “universe” of applicable professions, education, or experience which must be reflected in the membership so far as practicable.
4.      *Enact an ordinance setting out the procedures and requirements for filling board positions* (Watertown approach). This would establish the procedure, but the responsibility for providing job descriptions and establishing board member qualifications would remain with the Executive.

Ms. Havens said that part of what seems to contribute to good membership is the process by which the public is solicited for interest and an appropriate vetting process.

Ald. Sangiolo said she has a meeting with the member of the Planning & Development Board next week and will report back her discussion.

### Planning Board Perspective

The Planning & Development Board sent a letter conveying that they were opposed to the proposed changes. David Banash of the Planning & Development Board addressed the Committee. He said he saw the Planning Dept. memo on this item only this afternoon and thought it might have some strong support from the Board. One of the main problems the Board faces is the lack of applicants. They currently have only 8 members of what could be a 10 member Board. The concern is that a wish list of criteria could limit even further interested candidates and could easily eliminate a valuable member. What they would most like to do is attract more candidates to choose from and determine a way to do that. They felt that perhaps there could be an administrative procedure that summarizes the functions of the Board and a vetting process that determines whether or not a candidate is a good match. Ald. Baker said he was concerned as well about making the criteria too strict and perhaps screening out a very able member.

### Outreach

Ald. Sangiolo asked how current members of the Board were identified or recruited. Mr. Banash was not sure but that outreach is definitely a problem and is obviously not effective. Ald. Sangiolo said that it was also difficult for people to know when there are vacancies on Boards and Commissions. If they don't know, they can't apply. Ald. Baker said the description of the duties need to be clear and in language that the general public understands. All of this information should be on the City's website. Zoning and Planning Committee Report Monday, June 14 2010 Page 9

### Job Description

Ald. Johnson said that having a good job description, good public relations program, and good selection process is necessary. She provided the Warren administration with a template of what should be in a job description and she felt that would go a long way to finding good candidates. There could then be something in the ordinance that refers to the job description. That job description could be updated as necessary without having to keep changing the ordinance. It would be specific to the functions and responsibilities of the board as well as qualifications of the members.

### Mr. Herr's Comments

Phil Herr addressed the Committee. He agrees that any changes should take place through an administrative process rather than a legislative action. He was also concerned about missing a valuable candidate due to overly restrictive guidelines. The legislative body could provide ideas and guidelines to the Executive but they do not have to be in the form of an ordinance which constrains his choices. A memo with his further comments is attached to this report.

### Follow Up

Ald. Johnson would like to work with the Planning & Development Board and the Planning & Development Department to put together a job description for the Committees consideration. The Committee voted to hold this item 7-0.

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

**ACTION: HELD 6-0**

**NOTE:** Tom Greytak of the FAR Working Group addressed the Committee. He explained that the FAR Working Group had completed its report and delivered it to the Committee several weeks ago. He said that the group coalesced around the goals of developing recommendations for zoning amendments that would ensure a fairer application of FAR limits by more clearly defining what is included in the calculations of gross floor area (GFA) and by eliminating exemptions to the GFA; that would ensure a fairer distribution of massing to ensure that smaller lots have some opportunities for minor expansions that would be compatible with the existing character within their neighborhood; and that would be simpler to understand and apply and ensure enforceability. The Group was here to discuss its findings now that the Committee had time to review the report.

#### Gross Floor Area

The Committee spent much of the discussion focused on the portion of the FAR final report relative to Gross Floor Area (GFA) represented in the attached chart.

#### Basements

Mr. Greytak presented a PowerPoint explaining how basements might contribute to GFA and it is attached to this report for reference. The basic concept is that any part of the exterior basement wall that is more than 4 feet above grade becomes involved in the calculation for GFA and Floor Area Ratio (FAR). The percentage of the exterior wall that is over 4 feet above grade is multiplied by the perimeter of the building to find the GFA for the basement. Please see the examples on the attached presentation and the formula which is being proposed. The definition of a basement is not being changed in this proposal, just the way it is calculated in terms of FAR.

The Group explained that typically, homes are constructed with materials that will rot places at a level of 4 feet above grade. There are other standards as well as these can vary across the country dependent upon weather for that area. The rule of thumb is that basements rise 4 feet above grade in general and that is why the 4 feet model is being used in this proposal.

The FAR group said that it would be easier to allow the definition of basement, the two and a half story rule and building height control mass related to basements because those definitions exist and ISD knows how to apply them. However, they decided that unless they find a way to provide the proper disincentives and incentives so that people don't take advantage of how basements on steeply sloping sides affect FAR, developers will

search for those sites to build buildings with bigger mass. This proposal is the best way they could find to prevent gaming of the system in this area.

Ald. Yates was concerned about builders mounding the site to their advantage. Group members said they can't control everything a builder might do, but they are trying to work in as many controls as reasonably possible. Commissioner Lojek said there are grade plane controls. The average grade plane is measured 6 feet out from the foundation and it would lower the average grade plane and there would be penalties for that. There are also drainage requirements that would make mounding an extremely expensive proposition in the end. Generally, builders are not going to do something to make their expensive projects more expensive and less appealing.

*A Note about "Story"*

*If more than half of the basement is out of the ground, then it is considered a "story" and no longer a basement. If a basement, for example, has a room height of 8 feet and more than 4 feet on the average around the perimeter is out of the ground, it is considered a story and calculated as such; if it has a room height of 12 feet and more than 6 feet on average around the perimeter is out of the ground, it is considered a story and calculated as such, etc. The definition of "story" has not changed. Please see attached Example 1(b) and Example 3 of story calculations.*

*Space Above Second Story*

The Group explained that this is typically attic space and currently, this space is excluded if it meets the definition of a half story. The proposal is to include this space if it meets the definition of a habitable room, whether it is finished or unfinished, and would be included as part of FAR.

*Enclosed Porches*

Currently, porches are included only if the space is heated. The proposal is to include all enclosed porches. The structure underneath the porch is a good indicator as to what a future use might be. The space might be screened and unheated initially and therefore not included in the FAR calculation, but later enclosed and heated. The Group does not want to discourage porches as an architectural element and said this is open for discussion. The Committee asked for more guidance on the definition of "enclosed" and the Group said they would work on that.

*Detached Garages*

Detached garages are currently excluded but the proposal includes them. Commissioner Lojek said he has seen projects that have been trying to work the system by building garages 3 feet away from the house and thereby excluding the space from FAR. People have also been adding other features to the detached garages which add significant mass to the site (playrooms, workout rooms, etc.) and yet it is not being counted toward FAR.

*First and Second Stories, Atria/Other Vertical Spaces, Open Porches, Attached Garages and Other Detached Structures*

There were no questions or discussion related to these elements. No changes are being

proposed for these elements except for *Other Detached Structures* which will now be included with one exemption for a detached shed or other structure less than 120 square feet.

The Committee will discuss the proposed Sliding FAR Scale as indicated in Working Group Final Report at their meeting in September. The Committee voted to hold this item with thanks to the FAR Working Group members.