

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 13, 2010

7:45pm- Room 202

Present: Ald. Johnson (Chairman), Yates, Shapiro, Baker, Lappin, Sangiolo, Swiston, Lennon  
City Staff: Linda Finucane (Assistant Clerk to the Board), Seth Zeren (Principal Planner),  
Candace Havens (Interim Director, Planning Dept.), Marie Lawlor (Assistant City Solicitor),  
John Lojek (Commissioner, ISD), Juris Alksnitis (Chief Zoning Code Official.), Rebecca Smith  
(Committee Clerk)

FAR Working Group Members: K. Edward Alexander, Henry Finch, Thomas Greytak, Treff  
LaFleche, Peter Sachs, Alan Schlesinger, Chris Chu

#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]

**ACTION:** **APPROVED: 5-0 (Sangiolo, Lappin, and Lennon not voting)**

**NOTE:** Ald. Johnson updated the committee on the Mayor's search for a full-  
time Director of the Planning Department. Ald. Johnson and Ald. Yates represent  
the Board for the search committee that the Mayor has compiled to fill the  
position. Other members of the search committee include Candace Havens, Fran  
Yerardi, Bob Rooney, Dolores Hamilton, Donnalynn Kahn, and Therese Struth.  
The committee begins their selection process tomorrow. They will interview  
about a half a dozen applicants.

Ald. Yates then moved to re-appoint Candace Havens as the Interim Director. The  
Committee voted to approve this item.

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 1  
Districts*, be amended by adding a new subsection (5) as follows: "(5) Service  
establishment;" and that existing subsection (5) be re-numbered (6) and that  
section §30-13(b) *Special Permits in Mixed Use 1 Districts* be amended by  
deleting subsection "(4) service establishment;" and re-numbering subsequent  
subsections (4) through (15). 7/26/10 @2:26 PM]

**ACTION:** **HELD: 7-0 (Lennon not voting)**

**NOTE:** Attorney Alan Schlesinger presented his proposal and explained its purpose is to allow service uses in the Mixed Use 1 District. The property in question sits in a Mixed Use 1 District with a Mixed Use 2 District across the street. This is a text amendment that would apply throughout the Mixed Use 1 District. Attorney Schlesinger explained that the current allowed uses of a Mixed Use 1 District were determined when Needham Street was thought to develop into a biotech district, which it has not. That being the case, the allowed uses that are applicable to business in the area are office, light manufacturing, and research and development facilities. There are 16 special permit uses which are allowed and the majority of businesses in the Mixed Use 1 District are special permit uses or non-conforming uses. Service uses can get special permits, but since they are small businesses this becomes a hardship as the process is lengthy and costly. Attorney Schlesinger is asking the board to pick out special permit use number 4, service establishment, and make it an allowed use. He is not suggesting a complete rezoning of the Mixed Use 1 District as this would be a much larger undertaking.

It was suggested by the Aldermen, and Commissioner Lojek did not disagree, that there should be a discussion to determine a defined definition for the term “service use”. Ald. Baker spoke to the importance of a definition, saying that clarifying the nature of a service use establishment will help to ensure that service uses are small businesses with limited impact. This would become a separate docket item for the Committee and a separate public hearing would need to be scheduled.

***Actions to be taken:*** Attorney Schlesinger will meet with Ald. Hess-Mahan and Candace Havens to discuss the process of obtaining a special permit, as well as to discuss a possible definition for “service use”.

The Committee voted to hold this item.

#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]

**ACTION:**      **NO ACTION NECESSARY**

#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:**      **NO ACTION NECESSARY**

**NOTE:** 93-10 and 92-10 were discussed together. It was made clear that these items are guidelines for membership selection and not ordinances. The Committee agreed that this language is much improved from the previous drafts. While developing these membership guidelines things such as careers, level of expertise, key accountabilities, and location within the city (to get a cross section of the 8 wards) were thought about. For the Planning Board membership guidelines, Ald. Johnson sent drafts to Tabetha McCartney and Harvey Creem. Ms. McCartney responded and Ald. Johnson shared that correspondence with the Committee. Ms. McCartney believes it would be more appropriate for a commercial real estate owner to be a member than someone who rents property. Ms. McCartney also questions the need for political savvy. Ald. Johnson disagrees and does not want to remove political savvy from the desired competencies as she believes that if one is working with the community it is important to understand the political process and the political ramifications. Ald. Johnson's opinion was supported by the Interim Director of Planning.

Ald. Baker wants the Committee to remain sensitive to making qualifications that may, while allowing the boards to be filled more easily, be skewing a bias. He stated that sometimes the values of wanting development and wanting good neighborhoods comes into collision.

The Committee will be looking more closely at the wording of the membership guidelines and proposing resolutions to the Mayor as separate docket items. The Committee then moved to NAN these items.

#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: 8-0**

**NOTE:** Juris Alksnitis began the discussion about FAR by recapping the meeting from July and the general goals of the FAR Working Group. He explained that FAR is a measure of mass which was inserted into the zoning ordinance in the mid 1990's as an attempt to moderate the size of homes. The working group is trying to give new concepts to the FAR and new definitions to make the mechanics of FAR work, to capture floor area accurately, and to determine how building mass affects individual lots and streetscapes. The remainder of the discussion centered around the following topics:

### Porches

FAR includes all areas which are conditioned space. Conditioned space is habitable space, and a space is considered habitable if it is able to be heated or cooled. The definition of a porch, so far set forth by the FAR Working Group, is a space bordered by the exterior walls of the house and which is at least 50% opened, screened, or glazed. The 50% figure ensures that a porch remains unconditioned space since being half exposed to the elements renders the space uninhabitable. The FAR Working group believes that porches are a valued architectural feature and they're aware of the danger of discouraging porches should all porches be included in the FAR. They are hoping to avoid that scenario by not including porches in the FAR that are unconditioned.

There is discussion on whether or not glazing should be allowed in the definition of a porch. The argument against glazing is that glazing makes regulation more difficult. If the porch is glazed then it becomes a solid and conditioning it becomes a possibility. If the porch is only screened, it is easy to tell that the space remains unconditioned since one can safely assume that the homeowner would not heat or cool an area exposed to weather. The argument to allow glazing is that many homeowners want the ability to have a three season porch and that luxury shouldn't be taken away from them. Commissioner Lojek does not mind the burden of enforcement for glazed porches. He doesn't see this as being an issue for ISD.

### Attics and Half Stories

Attics and half stories are not currently included in the gross floor area, but the working group has decided that they should be. The gross floor area would include the future capacity (capacity is what the building department considers habitable), whether finished or unfinished. The Committee agreed that this is a good idea at the July meeting.

### Detached Garages

Detached garages are not currently included in the FAR but they do create mass on the lot and so the FAR Working Group proposes that detached garages are included in the future. The Committee agreed that this should be done.

The Committee then voted to hold this item. It will be first on the agenda for the first meeting in October.

### **The proposed agenda for the September 27<sup>th</sup> meeting is as follows:**

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 1 Districts*, be amended by adding a new subsection (5) as follows: "(5) Service establishment;" and that existing subsection (5) be re-numbered (6) and that section §30-13(b) *Special Permits in Mixed Use 1 Districts* be amended by

deleting subsection “(4) service establishment;” and re-numbering subsequent subsections (4) through (15). 7/26/10 @2:26 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]

Respectfully Submitted,

Marcia Johnson, Chairman