

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, OCTOBER 25, 2010

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

Absent: Pres.Lennon, Ald. Lappin

City Staff: Juris Alksnitis (Interim Chief Planner for Long Term Planning), John Lojek (Commissioner, Inspectional Services Department), Marie Lawlor (Assistant City Solicitor), Rebecca Smith (Committee Clerk)

FAR Working Group Members: Chris Chu, Alan Schlesinger, Thomas Greytak, Henry Finch

#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: Juris Alksnitis, Interim Chief Planner for Long Term Planning, and Marie Lawlor, Assistant City Solicitor, joined the Committee for the discussion of this item. Mr. Alksnitis presented the Planning Department’s study on special permits approved within the last year. Under the proposed system the properties on this chart (which is attached at the end of this report) would have been approved as by-right.

The remainder of the discussion revolved around deciding what the next step will be. The Working Group is giving the Committee the option of either adopting the changes now or having a 12 month study period before any change is proposed. During the study period Inspectional Services would collect data to see if the numbers proposed work as intended. The Working Group is providing this option as an alternative should the Committee not feel confident enough to adopt an ordinance change now.

Mr. Alksnitis and Henry Finch noted that they would be more comfortable adopting a change after a study period. It was proposed by Ald. Albright that instead of having a twelve month study of new material we should use plans from the past year to test the proposed metric. In order for this to have any benefit, though, someone would need to go through and recalculate the square footage of these plans according to the newly proposed FAR inclusions. Mr. Alksnitis and Commissioner Lojek responded by saying that this, while possible, would be a very resource intensive and time consuming process.

Atty. Lawlor advises the Committee to opt for the study period and adopt an ordinance change after the study is complete; taking this approach would lessen the likelihood of an amendment in the near future. She recommends that the current zoning

ordinance stay in effect while the Committee proposes a Resolution to allow the study to commence. Atty. Lawlor will look into Ald. Crossley's question about whether we can structure a phasing in of this zoning amendment similar to the process used with the State's "Stretch Energy Code". Atty. Lawlor notes that the Stretch Energy Code is building code which is much different than zoning code. Furthermore, she feels uncomfortable with the idea of allowing the homeowner to decide between two sets of rules; this would likely cause much trouble for the City.

The Committee came to the conclusion that the Working Group's efforts should be put to use sooner than later, yet they are still unsure of their confidence in the numbers and of the effect that the changes will create. The Working Group and Commissioner Lojek are very confident in the numbers proposed; they have tested them and have determined that they are the most reasonable for what we are trying to accomplish. Commissioner Lojek shared his belief that should the numbers need to be tweaked at all it would be by only a very small amount.

Ald. Yates suggests that the Committee should move forward with this but without the predilection given to smaller lots. Commissioner Lojek responded by reminding Ald. Yates and the Committee that there are other controls which will keep the amendment to FAR from causing the problems that Ald. Yates anticipates; these lots still have to adhere to setbacks, height limitations, lot coverage etc. The Commissioner further asserted that the Committee shouldn't be misled by the amount of square footage allowed on a given lot under this proposed system. He reminded the Committee that, because of the proposed inclusions for FAR, a 2,400 sq.ft house would potentially be recalculated to a 4,000 sq. ft house; it's because of this that the proposed increase in FAR is necessary.

The Committee doesn't want the momentum to be lost on this project but they do want to ensure that what is implemented is without unwanted repercussions. To that end, the Committee has charged the Working Group, together with the Planning Department, with creating a visual that depicts what could be built as-of-right on different sized lots of land. The Working Group will use the same lots/neighborhoods that were used in the sliding scale presentation from our last meeting. After hearing Mr. Finch's concerns about design repercussions Ald. Johnson requested that the working group outline any caveats they see from the adoption of this amendment. The Working Group will present this at our November 8th meeting; this meeting will be solely devoted to FAR.

#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] 90 days from pub hearing- Dec 26, 2010

ACTION: **NO ACTION NECESSARY 4-0 (Sangiolo and Shapiro not voting)**

NOTE: Attorney Alan Schlesinger sent a letter to the Committee requesting that the item be voted No Action Necessary. The Committee complied and a vote of NAN carried unanimously.

#336-08 ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9/12/08 @10:31 AM]

ACTION: **NO ACTION NECESSARY 6-0**

NOTE: The Committee voted No Action Necessary for this item with the assumption that this will be dealt with by the proposed Zoning Reform Scoping Group.

#10-06 ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.

ACTION: **NO ACTION NECESSARY 6-0**

NOTE: The Committee voted to NAN this item. Prior to the vote Ald. Sangiolo noted that she may re-docket something similar in the future. A vote of NAN carried unanimously.

#142-09(4)

Summary of FAR Special Permit Cases Approved Since Ord. Z-44

Adress	Zone	Lot (sf)	Approved		Type of relief	Modification	FAR limits		New FAR	Increase in FAR		
			B.O.	Date			Table 1	With Z-51#		Calc.	From	To
Ord. Z-44 adopted 3/16/09 – eliminates Table 1, Fn. 7												
19 Glen Rd	SR-2	6,800	120-09	6/1/09	Ext N/C Struct + FAR	Encl porch; addn on top	.3	[.37]	.45	.38	.43	.05
124 Allerton Rd	SR-2	7,545	135-09	6/15/09	Ext N/C Struct-FAR	2 story side addn to 1F	.3	[.37]	.44	.303	.35	.047
20 Chestnut Hill Terr.	SR-1	8,800	136-09	6/15/09	Ext. N/C Struct-FAR	1 story rear addn to 1F; Var. for lot cov. 23.9%	.25	[.32]	.41	.26	.32	.06
17 Wilde Rd	SR-2	4,800	138-09	6/15/09	Ext N/C Struct + FAR	2 story front addn to 1F	.3	[.37]	.48	.365	.467	.102
25 Bothfeld Rd	SR-2	7,240	140-09	6/15/09	Ext N/C Struct-FAR	2 story rear addn to 1F	.3	[.37]	.45	.312	.369	.057
26 Acacia Ave	SR-1	11,031	141-09	6/15/09	Incr conf FAR by SP [Fn5]	2 story rear addn to 1F	.25	[.32]	.37	.25	.32	.07*
Ord. Z-51 adopted 8/10/09 – provides “bump-out” relief												
23 Howe Rd.	SR-2	6,591	247-09	11/16/09	Ext. N/C Struct-FAR	Repl exist w/ larger 1F	.3	.35	.46	.411	.426	.15
22 Walter St.	SR-3	4,950	303-09	11/16/09	Ext. N/C Struct-FAR	Enclose screened porch	.35	.42	.50	.61	.63	.02
1 Billings Pk	SR-2	8,496	15-10	3/15/10	Ext. N/C Struct-FAR	Build attached garage	.3	.37	.44	.36	.43	.07
51 Hillside Ave	SR-2	7,160	17-10	3/1/10	Ext. N/C Struct-FAR	2 story add to 1F; 455 sf	.3	.37	.45	.33	.39	.06
8 Ridgeway Terr	SR-2	5,400	42-10	3/15/10	Ext. N/C Struct-FAR	BR over gar; 1 story addition	.3	.37	.47	.32	.46	.14
8 Ridgeway Terr	SR-2	5,400	42-10(2)	6/7/10	Amd 42-10– addl FAR	Same	.3	.37	.47	.46	.49	.03
39 Devonshire Rd	SR-2	10,400	75-10	4/20/10	Ext. N/C Struct + FAR	3 story rear addn to 1F	.3	.37	.42	.38	.48	.10
18 Cochituate Rd	SR-2	6,545	177-10	8/9/10	Ext. N/C Struct-FAR	Enlarge sun rm by 70 sf	.3	.37	.46	.41	.42	.01

City Clerk
TOWN, MA. 02159
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Notes to Summary table:

- For purposes of indicating max. limit, assume existing properties satisfy conditions of Z-51 para. 1 and 2, and new construction properties satisfy Z-51 para. 3.

[] - While Z-51 was not yet adopted and “bump-out” relief not yet available, limits in brackets give hypothetical maxima under Z-51.

*In the case of 26 Acacia Ave., conforming FAR not stated in BO. Increase in FAR is calculated from applicable limit.

FAR Recap Notes:

1. Ord. Z-44, 3/16/09, deleted former Table 1, Fn 7 in its entirety, including provision allowing unlimited FAR for modifications to existing residential buildings, provided demolition did not exceed 50% of existing building. This made all existing buildings subject to FAR, regardless of history and lot size.
2. Ord. Z-51, 8/10/09, moved former Table 1, Fn 5 & 6 to text in 30-15(u)(1)-(4).
 - (1) Provides “as-of-right” added FAR up to .05 above Table 1 limits for existing 1F & 2F homes at least 10yr. old
 - (2) Provides “as-of-right” added FAR up to .07 above Table 1 limits for existing 1F & 2F per above, meeting post-53 setback requirements or not building closer to lot line than existing structure.
 - (3) Provides “as-of-right” added FAR up to .05 above Table 1 limits for new 1F & 2F homes on pre-53 lots, provided post-53 setback and lot coverage is maintained in conjunction with pre-53 open space requirement.
 - (4) Provides SP relief for owners seeking relief from FAR, provided result does not derogate neighborhood as to size, scale, and design.