

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY DECEMBER 13, 2010

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

Absent: Pres. Lennon

Also Present: Ald. Crossley, Linsky, Fuller

FAR Working Group: Tom Greytak, Alan Schlesinger, Peter Sachs, Henry Finch, Chris Chu

Historical Commission members: Donald Lang who is the Chair (Chair), David Morton (Secretary)

City Personnel: Jen Molinsky (Interim Chief Planner for Long Term Planning), Candace Havens (Interim Director of Planning and Development), Marie Lawlor (Assistant City Solicitor), Brian Lever (Chief Preservation Planner), Rebecca Smith (Committee Clerk).

Others present: Greer Hardwicke (Preservation Planner, Town of Brookline)

#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 7-0**

NOTE: Jen Molinsky (Interim Chief Planner for Long Term Planning) began the meeting by presenting to the Committee the joint recommendation of the Planning Department and the FAR Working Group (*presentation attached to the end of this report*). The two groups decided that the best compromise for what numbers should be used to calculate FAR is the numbers proposed by the Working Group adjusted down by .02. In addition to this, an FAR bonus of .02 will be given for new construction on old lots if built to new lot setback standards. After some discussion of whether or not it would be beneficial to give a higher bonus and a lesser base line FAR, the Committee decided that the item should be taken to public hearing with the joint recommendation as presented. The Committee decided that the effective date would be 6-12 months from the date of passage but will continue their discussion on specific details of what exactly will be implemented, and how, after getting feedback from the public.. The public hearing for the item will be held on January 10th at 7:45pm in the Aldermanic Chamber.

#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]

ACTION: **HELD 7-0**

NOTE: Brian Lever, Senior Preservation Planner, presented to the Committee his proposed updates to section 22-50 of the City Ordinances- Demolition Delay: Demolition of Historically Significant Buildings or Structures (*presentation is attached to the end of this report*). The Demolition Delay ordinance requires that the owner of a structure must submit an application for review prior to receiving a building permit if said structure is 50+ years old and if the owner intends to demolish 25% or more of a façade or roof, or demolish the building in full. If Mr. Lever and the Historical Commission find that the structure is historic and preferably preferred (meaning that it's loss would be detrimental to the community) then a 1 year delay is put into place before any work is done to allow time for reconsideration and to contemplate other options. The homeowner can apply for a waiver of this time period should they choose.

The updates proposed to the ordinance are done so in an effort to continue to preserve historically significant buildings while also decreasing the amount of applications received by Mr. Lever from home owners looking to conduct simple/small projects. This would be accomplished through the following three elements of the proposal:

- 1) Increase the minimum percentage of a façade that's going to be altered, demolished, or covered to 50% from 25%
- 2) Establish a minimum delay period before issuing a waiver
- 3) Lengthen the delay period (currently 12 months) to 18 months for full demolition.

Lengthening the overall delay and creating a minimum delay period would be methods to gain even more time for reconsideration of rash decisions. Often times after having that delay the developer or homeowner sees that it could be cheaper or preferable to leave the existing structure, allowing the community to keep a building that has character and significance.

Mr. Lever introduced Donald Lang and David Norton, members of the Historical Commission; both shared their support for these changes stating that they would aid in the preservation of buildings, which is the main charge of the Historical Commission. Mr. Lang shared with the Committee the importance of the preservation of preferably preserved buildings to the quality and character of our neighborhoods. He noted that often people purchase property and demolish the structure only to build something inferior, and with less nuance and character which they sell shortly thereafter, leaving the neighborhood with a less desirable structure both in quality and aesthetics.

Mr. Lever then handed the floor over to Greer Hardwicke, the Preservation Planner for the Town of Brookline. Ms. Hardwicke shared her process with the Committee, noting that Brookline requires that all buildings whether they meet the 50

year mark or not, are reviewed by her office. Brookline has a delay time of either 12 months or 18 months. If it is determined that the structure is significant/preferably preserved, a subcommittee is created to discuss alternatives with the owners. Sometimes this makes a difference in the outcome, and sometimes it does not, but it gives them the opportunity to try to change the outcome.

The Committee responded favorably to the proposal and agreed that preservation is an important thing to encourage. Following a brief discussion they voted to hold the item in order to give it some thought. Additionally, before voting it out of Committee they'd like to get feedback from the public and so it was decided that there will be a public meeting, following the FAR public hearing, on January 10th, 2011. The public meeting will be publicized in the City Update section of the TAB on the 5th of January. The Committee will continue their discussion of this item subsequent to that meeting.

#353-10 ALD. JOHNSON, LINKSY, YATES proposing a Resolution to His Honor the Mayor, requesting that the City of Newton purchase the Economic Development Self- Assessment Tool and associated Toolkit developed by the Dukakis Center at Northeastern University to assist the city to better position itself in attracting business investment and growing existing businesses. [11/17/2010 @ 9:07am]

ACTION: **APPROVED AS AMENDED 7-0**

NOTE: Ald. Linsky and Candace Havens, Interim Director of Planning and Development, joined the table to discuss the item. They explained that the Economic Development Self-Assessment Tool is a survey consisting of 250 questions that would be answered by a group of City personnel. After the survey is complete it would be reviewed by the Staff at Northeastern's Dukakis Center; a report of the results will then be sent back to the City. Through that report we'd be able to see how we compare and integrate with adjacent communities and the region at large. We'd be able to assess our strengths and weaknesses by reviewing how we fared on the 10 different categories.

It was agreed upon by Ms. Havens and the Committee that this tool would be very useful but that it would be beneficial to view the questions beforehand to know what kind of commitment this is; unfortunately though, we most likely won't be able to do that unless we purchase the tool. There is some concern about the time that City personnel would have to dedicate to this process given the number of questions, and the research and discussion that will go into answering them, but the benefits would most likely outweigh the costs. Furthermore, it's expected that we would be able to pace ourselves in the completion of the survey which would make the time commitment less apparent.

It is the consensus of the Committee that economic development is not as strong in the City as it should be and that the Economic Development Commission could use some guidance. The City would likely reap much benefit from the use of this tool and should consider purchasing it especially given the inconsequential cost to the City (\$2,500). Economic development is a prime focus for Mayor Warren and he is aware and interested in this tool; though he will take into consideration the opinion of the Board, the purchase of this tool is ultimately his decision. Ald. Lappin moved approval of the item with the adjusted wording, suggested by Ald. Johnson, so that the docket item reads "proposing a resolution to His Honor the Mayor to investigate the use of the Economic

Development Self-Assessment tool...". The Committee voted unanimously to approve the item as amended.

Respectfully submitted,

Marcia Johnson, Chairman

10 DEC 13 P 10:17

CITY CLERK
NEWTON, MA. 02158

ZONING AND PLANNING COMMITTEE

NOVEMBER 29, 2010

Agenda:

- #142-09(4)** FAR
- #235-10** Demolition Delay Ordinance
- #353-10** Economic Development Self-Assessment Tool and associated Toolkit

FAR: Recent Background

- FAR Working Group recommended changes to definitions relating to FAR and numerical FAR limits

- Planning Department analysis supportive, but some concerns

- At Nov. 29th meeting, Committee requested Planning Department and FAR Working Group meet to discuss alternative proposals & middle ground

FAR: Working Group/Planning Dept. Joint Proposal

- Use Working Group FAR limits scaled back by .02 across all lot size categories, zones
- Use slightly different lot size categories that better mirror the minimum lot sizes used in the current Zoning Ordinance

Previous proposals	0-6999 7000-11999 12000-14999 15000-19999 20000-24999 25000+
Current Working Group/Planning Dept. proposal	0-6999 7000-9999 10000-14999 15000-19999 20000-24999 25000+

FAR: Working Group/Planning Dept. Joint Proposal

Lot Size Category (square feet)	SR1		SR2		SR3	
	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR
0 to 4999	0.46	0.46	0.46	0.46	0.48	0.48
5000 to 6999	0.46	0.43	0.46	0.43	0.48	0.48
7000 to 9999	0.43	0.33	0.43	0.38	0.48	0.41
10000 to 14999	0.33	0.31	0.38	0.33	0.41	0.38
15000 to 19999	0.31	0.28	0.33	0.33	0.38	0.38
20000 to 24999	0.30	0.26	0.33	0.33	0.38	0.36
25000+	0.26	0.26	0.33	0.33	0.36	0.36

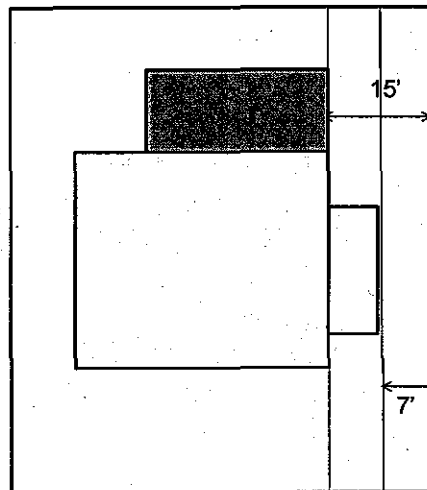
FAR: Working Group/Planning Dept. Joint Proposal

Lot Size Category (square feet)	MR1		MR2/MR3	
	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR
0 to 4999	0.58	0.58	0.58	0.58
5000 to 6999	0.58	0.53	0.58	0.53
7000 to 9999	0.53	0.48	0.53	0.53
10000 to 14999	0.48	0.48	0.53	0.43
15000 to 19999	0.48	0.43	0.43	0.38
20000 to 24999	0.43	0.38	0.38	0.38
25000+	0.38	0.38	0.38	0.38

FAR: Working Group/Planning Dept. Joint Proposal

- Allow a .02 FAR bonus for new construction on "old" lots (established <1954) if built to new lot side setback standards

Ex: SR2 lot
 Old lot side setback min=7.5'
 New lot side setback min=15'



	Lot Size	Total Number	Current	Current	"New"
			Nonconformity Rate, NO BONUS	Conformity Rate, Includes .05 BONUS	Nonconformity Rate
SR1	ALL	1,599	26%	14%	25%
	0-4999	2	100%	100%	100%
	5000-6999	18	72%	61%	39%
	7000-9999	83	75%	43%	34%
	10000-14999	294	49%	24%	53%
	15000-19999	489	27%	14%	24%
	20000-24999	186	12%	8%	22%
25000+	527	0%	0%	9%	
SR2	ALL	7,799	23%	12%	21%
	0-4999	108	95%	84%	78%
	5000-6999	655	70%	40%	41%
	7000-9999	1,990	37%	16%	24%
	10000-14999	3,314	14%	6%	19%
	15000-19999	1,149	4%	2%	10%
	20000-24999	308	1%	1%	7%
25000+	275	0%	0%	2%	
SR3	ALL	6,217	15%	8%	10%
	0-4999	436	57%	37%	42%
	5000-6999	1,366	27%	16%	20%
	7000-9999	2,652	10%	4%	5%
	10000-14999	1,337	3%	1%	4%
	15000-19999	261	0%	0%	1%
	20000-24999	85	0%	0%	4%
25000+	80	0%	0%	0%	

	Lot Size	Total Number	Current	Current	"New"
			Nonconformity Rate, NO BONUS	Conformity Rate, Includes .05 BONUS	Nonconformity Rate
MR1	ALL	3,115	23%	15%	18%
	0-4999	433	61%	47%	44%
	5000-6999	883	38%	23%	27%
	7000-9999	1,028	11%	5%	13%
	10000-14999	566	2%	1%	2%
	15000-19999	127	1%	1%	1%
	20000-24999	50	0%	0%	0%
25000+	28	0%	0%	0%	
MR2	ALL	939	38%	29%	31%
	0-4999	347	71%	59%	57%
	5000-6999	282	30%	19%	27%
	7000-9999	218	8%	6%	8%
	10000-14999	83	5%	5%	5%
	15000-19999	9	0%	0%	0%
	20000-24999	0			
25000+	0				
MR3	ALL	43	37%	23%	40%
	0-4999	8	75%	75%	63%
	5000-6999	12	67%	25%	75%
	7000-9999	15	13%	7%	20%
	10000-14999	7	0%	0%	0%
	15000-19999	1	0%	0%	0%
	20000-24999	0			
25000+	0				

Planning Department/Working Group Discussion

• **Appropriateness of FAR as a neighborhood preservation tool**

- Aesthetics, preservation of individual properties, and preservation of neighborhoods better addressed through other tools

Planning Department/Working Group Discussion

- Better tools – some Newton has now; others could be considered:
 - Individual properties:
 - Demolition Delay Ordinance – preservation
 - Local Landmark ordinance – aesthetics & preservation
 - Design review (e.g. UDC) - aesthetics
 - Neighborhood preservation:
 - Local Historic Districts – aesthetics & preservation
 - Architectural Preservation Districts (also called Neighborhood Conservation Districts) - aesthetics & preservation

Planning Department/Working Group Discussion

•Ease of interpretation

- Concerns about the interpretation of "new construction" versus "renovation," much like the previous 50% demolition rule
- Keep it simple

Planning Department/Working Group Discussion

•Points of comparison & data limitations

- Comparing to current zoning with or without bonus?
- Margin of error in data likely exceeds differences in scenarios under discussion

Planning Department/Working Group Discussion

•Measuring Success

- Criteria
 - No abrupt rise in special permit cases
 - No spike in complaints from abutters, neighbors
 - Usable (will require support materials, calculator)
 - No unintended design incentives

- Monitoring by ISD, Planning
 - Qualitative data on how architects, builders are designing under the regulations
 - Record of complaints, concerns, etc.
 - Quantitative data on FAR --
 - Breakdown on elements of FAR + total FAR for all building permit, special permit cases

Planning Department/Working Group Discussion

•Implementation

- Recommend at least 6 months to one year before new limits and definitions take effect

- Recommend extending current bonus to coincide with date of implementation

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Demolition Delay

- Demolition Delay in Newton
- Throughout 2009 and 2010 the Historical Commission and the Planning Department studied the effectiveness of the Demolition Delay in preserving historic buildings and structures in Newton. The results are included herein.

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Demolition Delay

- Demo Delay Purpose:
- Assure the preservation and enhancement of the City of Newton's historical and cultural heritage by preserving rehabilitating, or restoring whenever possible buildings or structures which have distinctive architectural features or historical associations that contribute to the historic fabric of City.

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Demolition Delay

- Demolition Review Filing Criteria
- (1) Building or structure must be 50 or more years old
- (2) Project must involve at minimum; demolition, altering, or covering 25% of façade or roof (partial demolition) or the full demolition of a building or structure.

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Demolition Delay

- Demolition Review Process
- (1) Filing threshold (25% of façade, 50 years) met or not, if not building permit issued.
- (2) Historically significant or not (determination can be made by staff or Commission)
 - If Not Historically Significant, permit issued
 - If Historic, staff and/or Commission review required. Determination must be made within 15 days of receipt of application.

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Demolition Delay

- Demolition Review Process Continued:
- (3) Staff review for historic buildings partial demo only, If approved, permit issued
 - If not approved, Commission reviews.
- (4) Commission review; property is Preferably Preserved (1 year delay) or Not PP. Determination must be made within 45 days of filing.
- (5) If PP, the Commission can issue a waiver of the remainder of delay upon conditions or not issue

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Demolition Delay

- 130 communities or 1/3 of Massachusetts have demo delays. Newton's was enacted 1986.
- Several communities use 50 years as an age trigger, 75 years is the most common.
- Partial demo is usually defined as 25% or more of an entire building or structure NOT 25% of a façade / wall as in Newton.
- Newton's filing threshold is the most stringent in New England.

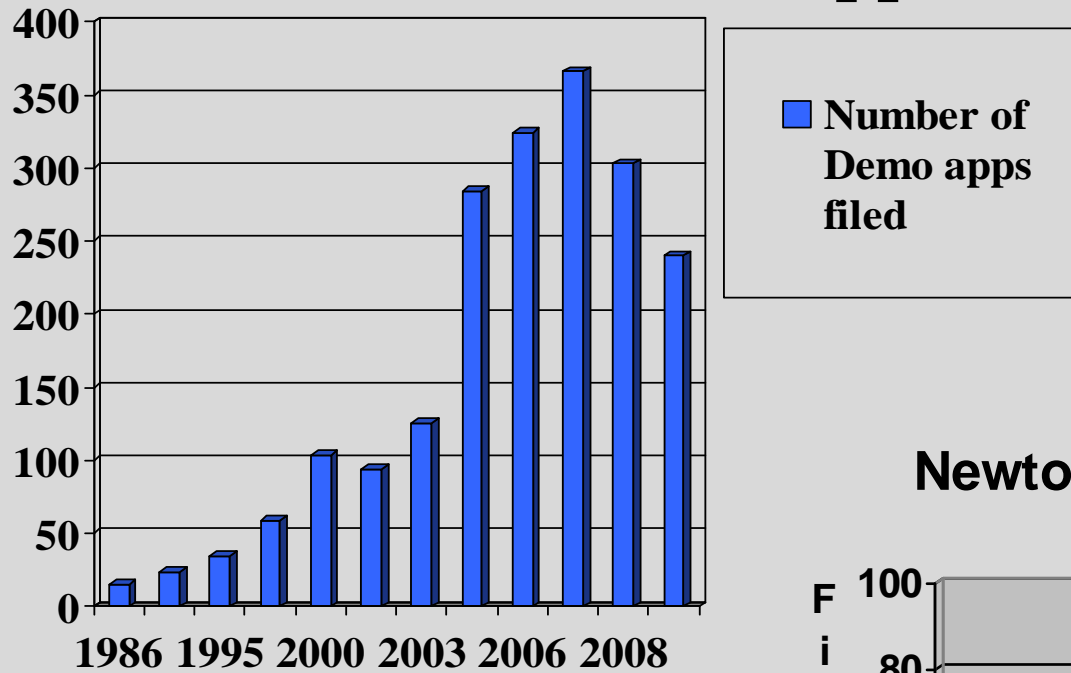
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Demolition Delay

- In Newton approx. 85% of the City is subject to the demo delay (over 20,000 residences alone + other buildings); most of Newton was built before 1960.
- Annually on average 300 applications for demo review are filed (2-3X as many as the City Boston) and greater than any other community in New England.
- 300 annual filings comes from filing threshold (25% threshold + 50 years)

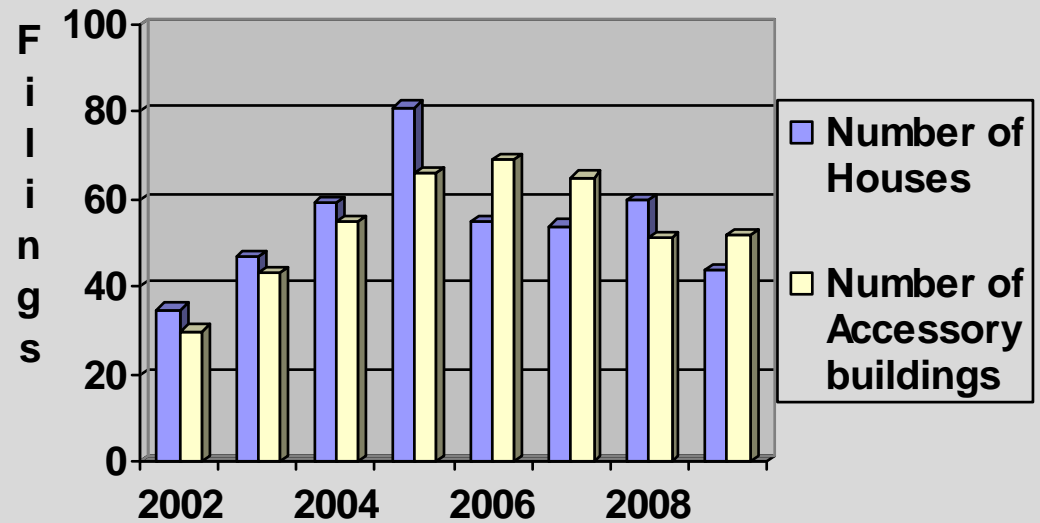
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Number of Demolition applications filed in Newton

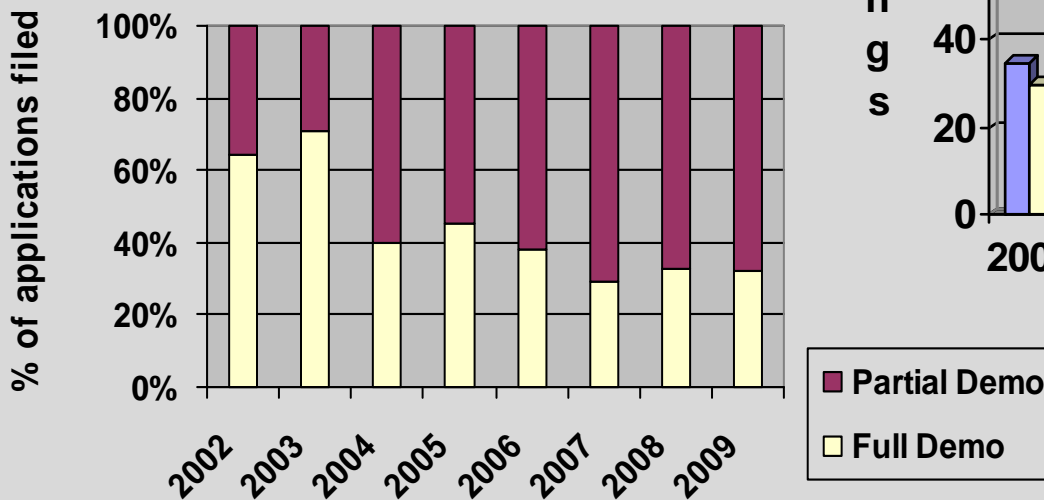


By comparison, Boston annually has approx. 125 filings.

Newton Full Demo Comparison



Partial Vs Full Demo Breakdown



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Demolition Delay

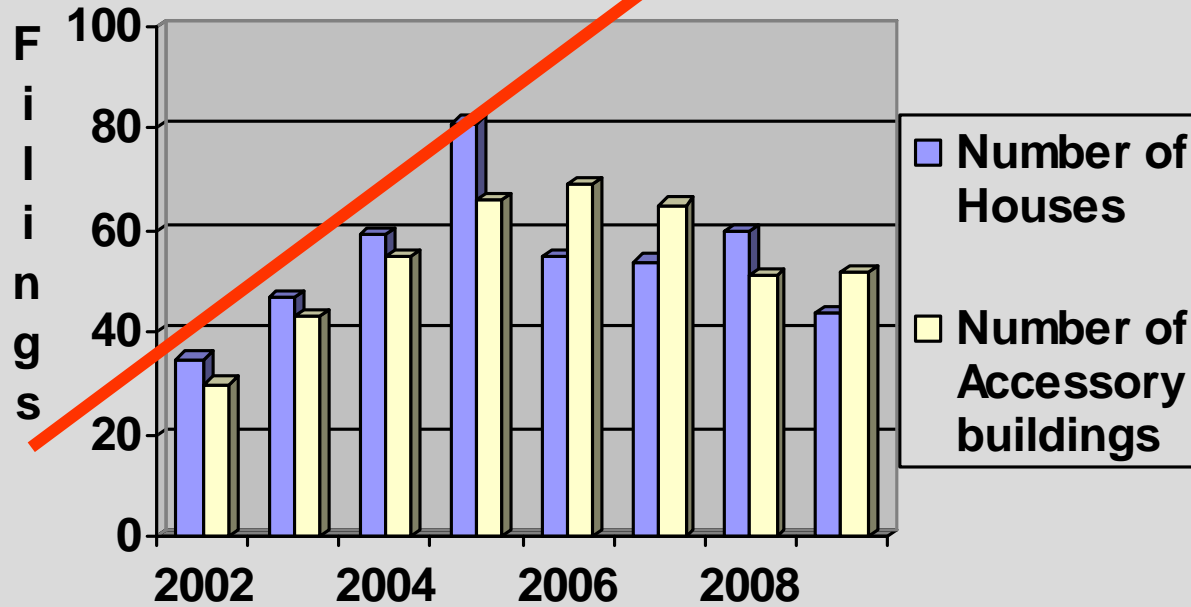
- In 2003 the Commission adopted a definition of partial demolition as 25% of a facade which resulted in a dramatic increase in filings for partial demolition
- The increase in filings inundated the Commission causing 20-30 items per meeting and prompting the Commission to issue waivers of the delay to quickly move through projects, therefore many buildings were demolished

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Demolition Delay

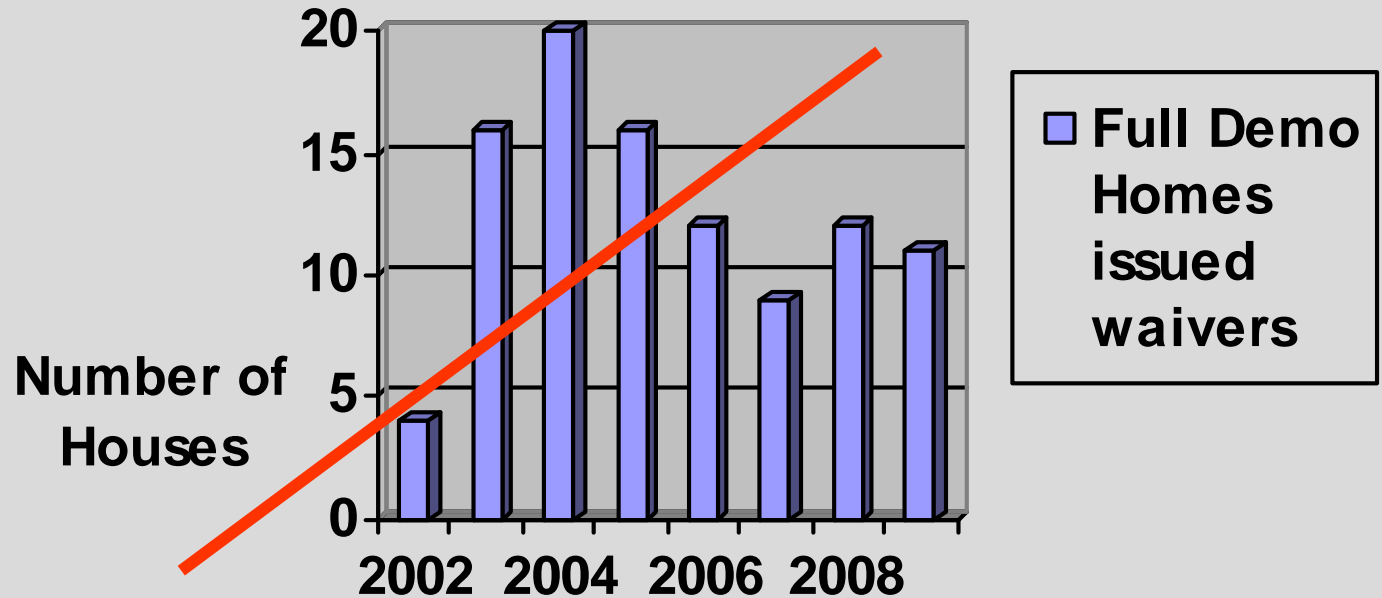
- In 2008 the demo delay ordinance was changed allowing a staff review which screened applications, but did not decrease the filings
- The Commission still receives requests for waivers of the Demolition Delay even before a building is put on the 1-year delay and in other cases applicants apply for a waiver the instant a building is put on delay and keep returning until a waiver is obtained

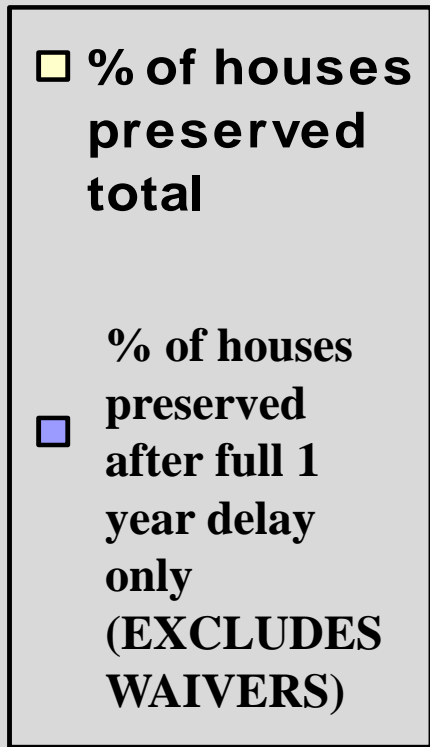
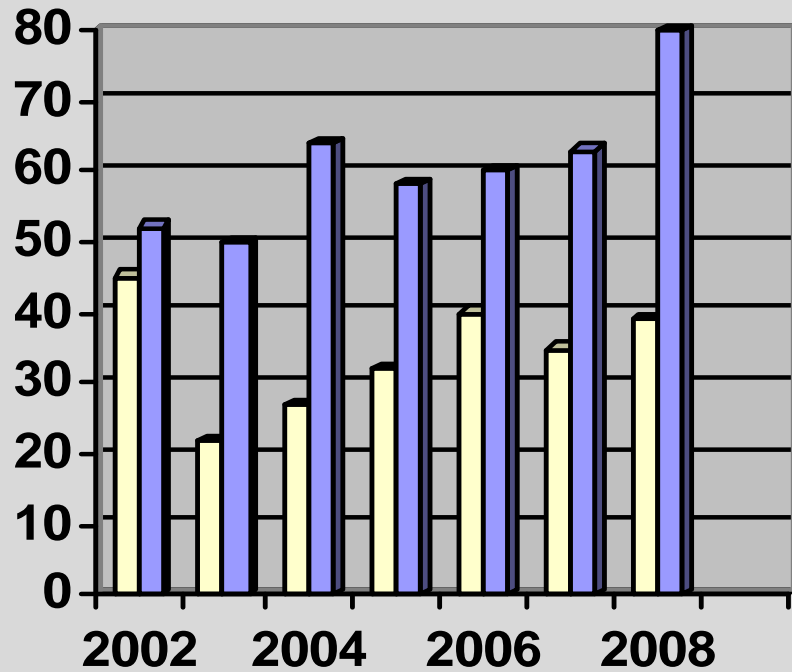
Newton Full Demo Comparison



***2003 25%
policy
adopted**

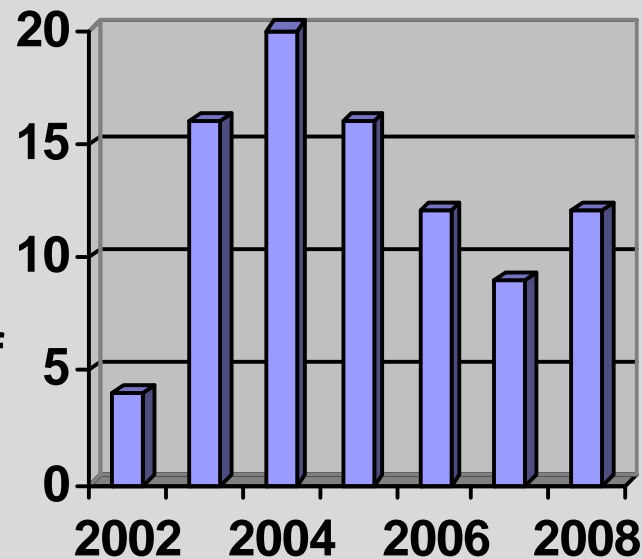
**Rates of
change differ
dramatically**





Fewer waivers issued = more homes preserved

Number of Houses



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Demolition Delay Effectiveness

- Results of Study of the Effectiveness of the Demolition Delay:
- Waivers have resulted in many more buildings demolished than through undergoing the full delay, diminishing effectiveness of the demo delay.
- Before 2003 waivers more often resulted in the preservation of buildings, since then the more often result in replacement (new) buildings.

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Demolition Effectiveness

- Results of Study:
- The 2003 25% filing threshold inundated the Commission with applications causing too much time spent on minor projects. In order to review projects quickly, the Commission issued many more waivers for full demolition.

Buildings Lost



303 Mount
Vernon Street



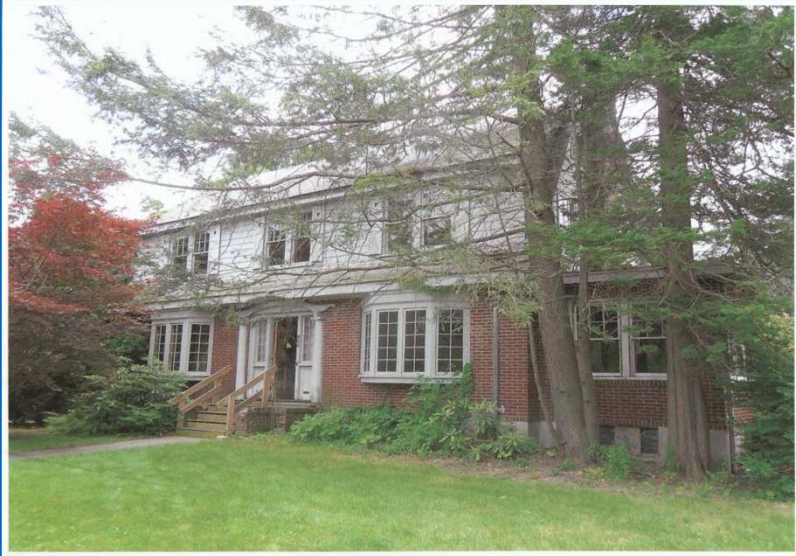
349 Dedham
Street



811 Commonwealth
Avenue

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Buildings Saved



50 Pelham Street



830 Commonwealth Avenue

450 Winchester Street



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Suggested Hierarchy

- PP 18-month delay, (full demos only)
- PP 12-month delay (full and partial)
- PP 12 month delay waived with conditions after minimum delay period
- Historically Significant, but Not PP (Meeting, but no delay)
- Not Historically Significant (No meeting)

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Proposal

- Continue as before, ordinance stays as written
- Pursue changes:
 - increase application threshold from 25% of a façade to 50%
 - establish minimum delay period (4 months) before issuing a waiver
 - lengthen delay (Brookline has 18-months for NR buildings, extra delay length could be for full demos of especially significant buildings)