

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, FEBRUARY 23, 2009

Present: Ald. Yates (Chairman), Ald. Lappin, Swiston, Harney, Baker, Danberg, and Linsky; absent: Ald. Ciccone; also present: Ald. Merrill, Sangiolo, Hess-Mahan, Parker, Coletti, Johnson, and Freedman

Planning Board members: David Banash (Chairman), Joyce Moss, Leslie Burg, and Michael Kruse

City staff: Jennifer Molinsky (Planning) and Linda Finucane (Clerk's)

Appointment by His Honor the Mayor

#47-09 DOUGLAS SWEET, 281 Lexington Street, Auburndale, appointed as a member of the PLANNING & DEVELOPMENT BOARD for a term to expire February 1, 2014 (60 days 4/18/09).

ACTION: APPROVED 4-0 (Harney, Danberg, and Linsky not voting)

NOTE: Mr. Sweet is an attorney with a mediation practice who serves on the Mayor's Committee for People with Disabilities who wishes to broaden his community service to include the Planning and Development Board. He has previously dealt with the Board in its role of making funding decisions on Community Development Block Grant funding of individual projects. The Committee members present for the early meeting (Baker, Yates, Swiston, and Lappin) voted unanimously 4-0 to approve his appointment. The Chair noted that Mr. Sweet stayed for the entire three-hour public hearing before the Planning Board and Committee on the proposed amendments to the Zoning Ordinance.

Public Hearings in conjunction with the Planning & Development Board were held on the following items:

#108-07(2) DIRECTOR OF PLANNING & DEVELOPMENT recommending that Chapter 30 of the Revised Zoning Ordinances, 2007, as amended, be further amended by deleting in Section 30-15, Table 1, Footnote 7 in its entirety.

ACTION: HEARING CLOSED

NOTE: Alderman Hess-Mahan explained that this item was an outgrowth of the review of the 50% demolition rule by the Zoning Task Force, which he chaired. The original intent of the rule was to allow owners of property that had been damaged but not demolished to restore their properties. However, it was used by developers to make massive additions to existing structures that all but obliterated the "preserved" portions of the original building. A previous revision proposed by the Task Force had not won approval. It was subsequently determined that a separate section of the Zoning

Ordinance allows partial damage to a structure to be repaired or replaced in the event of a catastrophe. The Planning Director therefore filed this item to remove the footnote completely. No one else spoke on the item, and it was held for a working session on March 9.

#109-07(2) DIRECTOR OF PLANNING & DEVELOPMENT recommending that Chapter 30 of the revised Ordinances of Newton, 2007, be amended by deleting in the existing language of §30-5(b)(4) and replacing it with language requiring special permits for retaining walls exceeding four (4) feet in height; by adding in §30-5(c) a requirement for the City Engineer's technical review and approval; and, by adding to §30-1 new definitions for retaining wall and berm, and amending the existing definition for *structure* to include *retaining walls*.

ACTION: HEARING CLOSED

NOTE: Alderman Hess-Mahan explained the history of this item, which had also gone through the Zoning Task force. Although the text of the Task Force's version was not adopted, it formed the basis of this item, which included stronger powers for the Engineering Division to deny a petition if it would cause drainage or erosion problems. Attorneys Jason Rosenberg and Alan Schlesinger (a member of the Task Force) spoke about the undue impact of the three foot grade change regulation. Some items with little impact were forced to comply with it while others with significantly greater impact were exempted, not by action of the Board of Alderman but by common practice of the last several Inspectional Services Commissioners. Attorney Catherine Clements who had served on the Zoning Board of Appeals for more than a decade and as its chair for three years raised questions if the item would unduly hamper efforts of property owners like her to build safe driveways on the northern slope of West Newton Hill near the Turnpike. Mr. Schlesinger was asked to consult with her on the topic. Attorney Rosenberg offered to help draft conditions that would more precisely focus the special Permit on the amount of fill added to or removed from a site. The item was held 7-0 for working session on March 9.

#94-08 PLANNING & DEVELOPMENT BOARD, ALD. JOHNSON & LINSKY recommending the deletion of certain provisions and the addition of new provisions to regulate home businesses by amending Section 30-1, Definitions; Section 30-8, Use Regulations for Single Residence Districts; Section 30-8(b) and (c), Special Permits in Single Residence Districts; Section 30-9(b), Special Permits in Multi Residence Districts; Section 30-19(d), Number of Parking Stalls; and Section 30-20(e), Regulation of Signs in Residence Districts. The proposed amendments would revise or remove specific home occupations in the current definition of home businesses; modify the definition of home business; institute a registration requirement for some home businesses; allow multiple home businesses at the same residence provided that all home businesses combined do not exceed the limitations in the ordinance; revise the number of clients and employees non-resident to the business allowed on site at a given time without a special permit; amend and

clarify limitations on storage, signage, and sale of merchandise; revise the list of prohibited neighborhood impacts; allow businesses in accessory apartments under certain circumstances; set a limit on the number of trips that may begin or end at a home business and the number of parking stalls demanded or utilized by the business without a special permit; revise the limit on the percentage of a dwelling unit that may be used for a home business without a special permit; require a special permit for home businesses involving the care and keeping of more than three animals; and revise the number of parking stalls required by a home business.

ACTION: HEARING CLOSED

NOTE: There was a lengthy presentation of the item by David Banash, Chair of the Planning Board and explanations of intent offered by the individual sponsors Aldermen Linsky and Johnson and their advisor Phil Herr. There was adverse testimony from Attorney Rosenberg and some explanations of current and proposed practice concerning the matter. There was a great deal of testimony from citizens who felt that it would unreasonably harm a single home business or a large number of them. The details of the testimony will be given before a working session on this matter in late March or early April.

All other items were held without discussion and the Committee adjourned at approximately 11:00 PM.

Respectfully submitted,

Brian Yates, Chairman