

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, MARCH 9, 2009

Present: Ald. Yates (Chairman), Ald. Baker, Lappin, Danberg, Ciccone, Linsky, Harney, and Swiston

Other Aldermen: Ald. Hess-Mahan

City Staff: Michael Kruse (Director of Planning & Development), Marie Lawlor (Assistant City Solicitor), John Lojek (Commissioner of Inspectional Services), Jennifer Molinsky (Principal Planner), Eileen McGettigan (Assistant City Solicitor)

Also present: Steven Meyer, from the Newton Commonwealth Golf Course Foundation and Attorney Alan Schlesinger, who chaired the 3-foot grade change subcommittee of the Zoning Task Force

62-09 HIS HONOR THE MAYOR requesting Board of Aldermen approval of a conservation restriction for the Newton Commonwealth Golf Course, which has been given preliminary approval on behalf of the Secretary of Energy and Environmental Affairs, to update the Conservation Restriction executed by the Mayor in 1982 incident to the acquisition of the golf course as public open space.

ACTION: APPROVED 8-0

NOTE: Planning Director Kruse and Alderman Baker explained that after the Golf Course was acquired by the city decades ago, a proposed Conservation Restriction (CR) was submitted to the state for its required approval. It was rejected for several technical reasons, the most notable being that no holder of the CR was designated. For unknown reasons, no response was ever prepared by the City and no CR was ever imposed on the land. When it became known, Alderman Baker worked with Stephen Small of the Newton Commonwealth Golf Course Foundation and a national authority on land conservation to develop an acceptable CR. The Newton Conservators have been tentatively designated as the holders of the Conservation Restriction subject to the allocation of \$30,000 in golf course money to be set aside to enable them to enforce it. The Committee voted unanimously to accept the Conservation Restriction, a lengthy document, which was attached to the Committee agenda for this meeting. (Subsequent to the meeting, the Conservators voted accept the Conservation Restriction.)

#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: APPROVED 8-0 (DRAFT ORDINANCE ATTACHED)

NOTE: This footnote had originally been intended to allow homeowners whose property was seriously damaged to restore it to its previous condition. It has become a grotesque

loophole which developers have used to build monster homes, in some cases around the "preserved property." The Zoning Task Force labored mightily to find a way to amend it to remove the chances for abuse while protecting the right to rebuild and none was found that could even pass muster. It was noted that the Zoning Ordinance gives property owners the right to rebuild their damaged properties, leaving this escape clause unnecessary for that purpose. The Planning Department recommended that the footnote be deleted. The Planning Board agreed, and so did the Zoning and Planning Committee with all members voting in favor of the deletion.

#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: APPROVED 7-0-1` (Linsky abstaining) (DRAFT ORDINANCE ATTACHED)

NOTE: This is the product of extensive work by the Zoning Task Force. The current requirement for a special permit for a three-foot grade change is eliminated. The Engineering Division is given the power to review building permits and to reject those that would cause drainage or erosion problems. Retaining wall is defined and specified as a structure, thereby requiring a special permit to put one in the setback of a lot. After extensive questioning about some sites that have been problematic because designers tried to avoid seeking a special permit for a three foot grade change, the Committee was convinced by Mr. Lojek that all such past problem projects would be still required to get a permit. The Committee voted 7-0-1 with Alderman Linsky abstaining to approve the item as heard

#344-07 ALD. GENTILE, HARNEY & SANGIOLO requesting information from the Commissioner of Inspectional Services as to why a building permit was issued for work at the Marriott Hotel without a special permit amendment and when the mistake was discovered why a stop work order was not issued. [10-30-07 @5:20 PM]

ACTION: NO ACTION NECESSARY 8-0

NOTE: Since the Marriott hotel has gotten a full special permit with extensive conditions, Alderman Gentile had agreed with the Chair that this item could be voted No Action Necessary. Alderman Harney moved to do so, which passed unanimously.

All other items were held without discussion, and the meeting was adjourned at approximately 8:30 PM.

Respectfully submitted,
Brian Yates, Chairman