

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 14, 2009

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

City staff: Marie Lawlor (Assistant City Solicitor), John Lojek (Commissioner of Inspectional Services), Michael Kruse (Director of Planning & Development), Jennifer Molinsky (Principal Planner), Linda Finucane (Chief Committee Clerk)

FAR Working Group Members: Architects Kay Alexander, Peter Sachs, Henry Finch Treff LaFleche, Christine Chu, and Attorney Alan Schlesinger – A report on the report of the FAR Working Group will be sent under separate cover.

NOTE: The following re-appointees and changes in appointment status, whose resumes were attached to the agenda were approved unanimously without discussion.

Re-appointment by His Honor the Mayor

#212-09 BARBARA WALES, 5 Rotherwood Road, Newton Centre, re-appointed as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2013 (60 days 10/9/09).

ACTION: APPROVED 7-0

Change in Appointment by His Honor the Mayor

#184-09 VINCENT FARINA, 24 Manemet Road, Newton Centre, currently an *associate member* of the ZONING BOARD of APPEALS, appointed as a full member, filling the position vacated by Bernard Shadrawy, for a term to expire September 1, 2011.

ACTION: APPROVED 7-0

Re-appointment by His Honor the Mayor

#185-09 HILLARY S. BROWN, 39 Crescent Avenue, Newton Centre, re-appointed as an *associate member* of the ZONING BOARD OF APPEALS for a term of office to expire September 1, 2010.

ACTION: APPROVED 7-0

Re-appointment by His Honor the Mayor

#186-09 SELMA URMAN, 90 Shady Hill Road, Newton Highlands, re-appointed as a member of the ZONING BOARD OF APPEALS for a term to expire September 30, 2012.

ACTION: APPROVED 7-0

Change in Appointment by His Honor the Mayor

#187-09 ZACK BLAKE, 66 Eddy Street, West Newton, currently an *alternate member* of the NEWTON HISTORICAL COMMISSION, appointed as a regular member for a term to expire January 1, 2010.

ACTION: APPROVED 7-0

Re-appointment by His Honor the Mayor

#188-09 DANIEL GREEN, 46 Glen Avenue, Newton Centre, re-appointed as a member of the CONSERVATION COMMISSION for a term to expire April 30, 2012.

ACTION: APPROVED 7-0

Appointment by His Honor the Mayor

#211-09 JONATHAN SALES, 1429 Centre Street, Newton Centre, appointed as an associate member of the ZONING BOARD OF APPEALS for a term to expire September 1, 2010.(60 days 10/9/09).

ACTION: APPROVED 6-0

NOTE: Mr. Sales joined the committee and listened to most of the report from the FAR Working Group. An attorney, with diverse experience that includes representing clients in front of boards and commissions in other communities, he looks forward to serving on the Zoning Board of Appeals, but reserves his opinion on whether the ZBA should be given some special permit granting authority. Mr. Sales' resume was attached to the agenda. Alderman Danberg moved approval, which motion carried 6-0, with Alderman Ciccone not voting.

#103-09 ALD. MANSFIELD & PARKER proposing amendments to Chapter 30 to update criteria and regulations pertaining to development in Mixed Use Zoning Districts.

ACTION: HELD 6-0 (Ciccone not voting)

NOTE: The Chairman sent to the Board on August 14 a memorandum in which he expressed his intention to ask the committee to vote No Action Necessary on the following items. In the interim, committee members spoke with colleagues re their pending items and voted them No Action Necessary, unanimously, without discussion, except in the cases of #103-09 above, which it agreed to hold for now and #9-05, below, for which Alderman Baker gave a verbal report before the committee voted to NAN it.

- #346-07(2) ZONING & PLANNING COMMITTEE proposing that subsection 22-40(h), *Exclusions*, of **Chapter 22-40, Historic district; purpose, governance, appointments, officers**, be amended by excluding from historic district commission review (i) Exterior-mounted antennas, with a power source, no higher than ten (10) feet and solely for municipal use on existing municipal structure in public use districts; and (j) elements of wireless mesh networks allowed by the review process under section 30-18(A)(g).
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #48-04 ALD. GENTILE requesting that subsection (c) (1) of Chapter 22-44, **Demolition of historically significant buildings or structures**, be amended to affect a building or structure which is in whole or in part 100 or more years old.
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #127-07 ALD. BURG, HESS-MAHAN requesting to amend Section 22-38 of the Revised Ordinances by adding a provision to create term limits for members of the Newton Historical Commission. [5-1-07 @2:23 PM]
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #128-00(3) ZONING & PLANNING COMMITTEE requesting that the Planning, Law and Inspectional Services Departments develop an effective way to prevent in the historic districts the construction of structures that do not require building permits but nonetheless have impact on the historic character of the districts.
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #334-04 ALD. HESS-MAHAN proposing that Sections 30-1, 30-8(d) and 30-9(h) relative to accessory apartments be amended.
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #345-07 ALD. BURG, VANCE, HESS-MAHAN, SALVUCCI, DANBERG requesting revision of the special permitting process for signs.
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)
- #231-02 ZONING & PLANNING COMMITTEE requesting that further studies be done by the Planning and Public Works Departments with maximum feasible participation by the neighborhood (using special permit mitigation money to hire consultant(s) if necessary) to answer questions and address issues raised in Zoning & Planning Committee on 6/10/02 about how to reduce the possibility of further over development in Thompsonville and ways to measure its impact.
- ACTION: NO ACTION NECESSARY 6-0 (Ciccone not voting)

#287-01 ALD. SANGIOLO proposing an ordinance to require a permitting process for the construction of parking lots.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

**REFERRED TO PROG. & SERV., ZONING & PLANNING, PUB. FACIL.,
PUB. SAFETY AND FINANCE COMMITTEES**

#273-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that the Executive and Human Resources Departments develop a comprehensive human capital strategy for the city to include: performance management, talent development, succession planning, and compensation.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#354-04 ALD. BAKER AND SANGIOLO proposing that the Zoning Ordinances be amended in order to address building mass and height, better reflect usable floor area in attic and basement spaces, clarify measurement of building height when the roof line is changed, address upper story additions involving dormers and finished attic areas, and address large additions significantly increasing building size and mass, through amending the following provisions including but not limited to Section 30-1 definitions pertaining to “attic”, “height”, “story, half”, floor area, gross”, “space, habitable”, adding new definitions as appropriate pertaining to dormers and roof types, and amending Section 30-15, Table 1, Footnote 7(3) pertaining to calculation of FAR in the case of existing structures and such other related provisions as may apply.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#219-06 ALD. PARKER, MANSFIELD, HESS-MAHAN & FISCHMAN requesting discussion of an ordinance to require builders of large new structures and/or major expansions of existing structures to use natural plantings to screen the view of those structures from any abutting residences.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#347-07 ALD. PARKER, SANGIOLO, VANCE requesting an amendment to **§30-20, Signs and other advertising devices.**, to bring the ordinance into compliance with court ruling regarding the protection of free speech as it applies to signs expressing opinions.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#339-06 ALD. PARKER proposing an amendment to Chapter 30 to require that residential developments over 36 feet in height include a minimum of 25% affordable (‘inclusionary’) units.
ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#10-05 PRESIDENT BAKER recommending discussion and possible recommendations about amendments to historic district state law proposed by the Massachusetts Historical Commission, including suggested enhancement to facilitate local review and effective compliance.

ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

#9-05 PRESIDENT BAKER & YATES reporting on proposed Massachusetts Land Use Reform Act and discussion of possible aldermanic endorsement.

ACTION: NO ACTION NECESSARY 6-0 (Cicccone not voting)

NOTE: Alderman Baker reported briefly on statewide zoning reform, and then moved No Action Necessary on the item to allow it to be updated later if helpful to the committee.

Alderman Baker is glad to go into detail for any interested member of the Board, but he has provided this brief summary for the Committee Report. An article from *Commonwealth Magazine* describes some of the work of Newton resident Greg Bialecki, now Secretary for Housing and Economic Development.

For almost two years, Secretary Bialecki convened representatives of various groups interested in Massachusetts zoning law, including the Massachusetts Municipal Association (MMA). (Alderman Baker helped represent the Massachusetts Municipal Association as a member of its Committee on Regional Policy and Administration.) The MMA had previously supported some proposed amendments to the state zoning law known as the Land Use Reform Act, and further amendments that might enhance local control in return for undertaking local planning. That changed into a more complex bill known as the Community Planning Act, which the MMA supported in earlier forms but receded from in part because of some changes and additions that diminished local authority. That bill, however, combined with other recent enactments (such as expedited permitting under Chapter 40D, and Chapter 40R special districts) became the basis for Secretary Bialecki's discussions.

Simply put, the current proposal, known as the Land Use Partnership Act (LUPA), would give increased zoning authority to communities who agree to make the local zoning and related land use ordinances consistent with a land use plan with statutory elements reviewed and certified by the regional planning agencies, including housing production, economic development, open space residential development, low impact development regulations, and renewable energy options. The incentive for undertaking this planning and regulatory effort would be shorter terms than eight years for zoning freezes by developers, or a safe harbor for two acre zoning for natural resource protection, or control over single lot subdivision on rural roads. These provisions would not provide much help for Newton, but might help communities in the process of more active growth.

Other provisions in the proposed LUPA would limit or expand some land use authority for all communities, even if those communities did not elect to opt-in to the planning and

regulatory requirements. For example, zoning changes might take only a majority rather than a supermajority vote, though a supermajority could be retained if a community's legislative body so voted by a two-thirds vote. Other changes would involve limitation on appeals of certain zoning permits (like site plan review), as well as additional authority for transferable development rights, development impact fees pursuant to a capital plan and impact analysis (but with prohibition of off-site mitigation except through impact fees), site plan review (including constructive grant), extension of the period for exercise of certain permits to two years, clarified definition of cluster development, options for minor subdivision review, limits on road requirements for subdivisions, and other provisions, the net effect of which in some cases would limit development opportunity to a certain degree, and in other cases limit local review and authority.

Alderman Baker indicated he would continue to monitor the legislation as it evolved since it has been the subject of multiple comments by affected constituencies.

All other items were held without discussion and the meeting was adjourned at approximately 10:00 PM.

Respectfully submitted,

Jay Harney, Vice Chairman