

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 10, 2008

7:45 PM  
Room 202

**ITEMS TO BE DISCUSSED:**

Appointment by His Honor the Mayor

#66-08        LESLIE BURG, 75 Fuller Terrace, West Newton, appointed as a member of the Planning & Development Board for a term to expire February 1, 2013. (4-19-08) [2-7-08 @3:21 PM]

Change of appointment by His Honor the Mayor

#67-08        DONALD TELLALIAN, 19 Crystal Street, Newton Centre, currently an Alternate member of the Newton Upper Falls Historic District Commission, appointed as a regular member for a term of office to expire July 1, 2010. (4-19-08) [2-07-08]

Re-appointment by His Honor the Mayor

#95-08        DAVID BANASH, 12 Warwick Road, West Newton, re-appointed as a member of the PLANNING & DEVELOPMENT BOARD for a term to expire February 1, 2013 (5-3-08).

Re-appointment by His Honor the Mayor

#96-08        JEFFREY R. RIKLIN, 37 High Street, Newton Upper Falls, re-appointed to the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION as a *resident member* for a term to expire July 31, 2011 (5-3-08).

Re-appointment by His Honor the Mayor

#97-08        LAWRENCE C. SCHWIRIAN, 7 Williston Road, Auburndale, re-appointed to the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION as the *full architect* member for a term to expire July 30, 2001 (5-3-08).

#110-07        ZONING TASK FORCE recommending amendments to *Definitions, Story, half*, referred to as the half-story/dormer policy, by creating an ordinance with provisions: (1) codifying policy that permits a dormer that does not exceed fifty percent of the width of the wall directly below it; (2) permitting the vertical plane of the front wall of a dormer to align with the exterior wall directly below and requiring a roof line overhang between

the dormer and the wall directly below; (3) requiring that the vertical plane of the side wall of a dormer be at least two feet from the vertical plane of the vertical plan of the side wall directly below; (4) prohibiting a dormer roof that exceeds the highest point of the ridgeline of the roof of the building; (5) amending the definition of roof height to be the vertical distance between the elevations of (a) the average grade plane and (b) the midpoint between the highest point of the ridgeline of the main roof and the line formed by the intersection of the top of the main building wall plane and the main roof plane; (6) creating a design review committee (DRC) to review and approve dormers not expressly permitted by ordinance, with a right of appeal to the Board of Aldermen by petitioners aggrieved by decisions of the DRC; and (7) specifying that the above policy does not apply to dormers on the second floor of a building.

**Hearing closed 1/28/08; 90 days: 4/27/08**

#126-07 ZONING TASK FORCE recommending the following amendments to Section 30-1 Definitions, "*Story, half*," referred to as the half-story/dormer policy, as follows: (1) remove the definition of "*Story, half*" in its entirety; (2) amend the current definition of "*Dormer*" to "*Dormer* a permanent superstructure projecting from a sloping roof and equipped with a window or a vent. The length of a dormer shall be less than the length of the wall below it by at least 3 feet at each end of the wall." **Hearing closed 1/28/08; 90 days: 4/27/08**

#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]

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

#94-08 PLANNING & DEVELOPMENT BOARD, ALD. JOHNSON & LINSKY recommending amendments to Section 30-1, Definitions; Section 30-8, Use Regulations for Single Residence Districts; Section 30-8(b), Special Permits in Single Residence Districts; Section 30-9(b), Special Permits in Multi Residence Districts; Section 30-19(b), Number of Parking Stalls; Section 30-20(e), Regulation of Signs in Residence Districts; and Section 30-24, Special Permits, by deleting certain provisions and adding new provisions to regulate home businesses. [2-25-08 @6:16 PM]

#330-02 ALD. JOHNSON, BULLWINKLE, LINSKY requesting a discussion regarding revamping the home business ordinance to reflect current uses (allowable/not allowable).

- #346-07 HIS HONOR THE MAYOR proposing that §30-18A(d), *Wireless Communication Equipment Allowed As-of-Right.*, be amended by adding a new subparagraph (8) to require a public hearing and board of aldermen approval for wireless communication equipment (WiFi) utilized by the city for its communications systems. **Hearing closed 2/25/08; 90 days: 5/25/08**
- #108-07 ZONING TASK FORCE recommending amendments to Section 30-15, Table 1, Footnote 7(3), referred to as the fifty percent (50%) demolition rule, by deleting said provision and creating an ordinance with provisions: (1) specifying the method for calculating what constitutes 50% demolition based on total surface area of the walls and roof; (2) defining demolition to include the conversion of an exterior wall to an interior wall; (3) where less than 50% of the building is demolished, limiting total gross floor area of remaining portion of building plus any addition to 140% of the applicable FAR, provided that the resulting structure complies with all other applicable dimensional controls; (4) requiring that the Inspectional Services Department determine that an existing wall not proposed to be demolished is structurally unsound after demolition and/or construction has begun and review and approve plans for replacement with an identical wall prior to such replacement. **Hearing closed 1/28/08; 90 days: 4/27/08**
- #109-07 ZONING TASK FORCE recommending amendments to Section 30-5(b)(4), referred to as the three-foot grade change ordinance, by deleting the existing language and: (1) add a provision defining structure in Section 30-1 to include retaining walls that exceed five (5) feet in height; (2) substitute language in Section 30-5(b)(4) to allow the Zoning Board of Appeals to grant a special permit for the construction of retaining walls that exceed five (5) feet in height; and (3) create an ordinance to require the Engineering Department to review and approve a drainage plan for construction or alteration of single and two-family residences that would increase impervious surface by the lesser of 5% or 500 square feet and for all other types of construction or alteration. **Hearing closed 2/25/08; 90 days: 5/25/08**
- #111-07 ZONING TASK FORCE recommending amendments to 30-21(3)(c), referred to as the de minimis rule, by amending the existing language with provisions: (1) clarifying the applicability to and effect of the rule on (a) the minimum distance between buildings; and (b) all applicable dimensional controls; and (2) creating a new procedure for approving a de minimis extension of the nonconforming nature of a structure. **Hearing closed 1/28/08; 90 days: 4/27/08**
- #41-07 ALD. LAPPIN & BURG proposing an amendment to §30-20 to allow through an administrative process temporary sign(s) for special events such as the opening of a new business. **Hearing closed 2/25/08; 90 days:**

- #194-06      NEWTON HISTORICAL COMMISSION recommending that the Demolition Delay Ordinance, Section 22-44, be amended in an effort to:
- Reflect actual administrative practices vs. those specified in the current ordinance,
  - Reduce the number of non-historic properties or building elements that the Commission reviews, while re-enforcing the intent of the original ordinance, which is to protect and enhance historically and architecturally significant properties, that are not otherwise protected through local historic districts and local landmark designation, through the creation of additional criteria, beyond just age of the building, based on the Commission's and staff's experiences over the past few years and through the use of building surveys, etc., and
  - Help reduce ambiguities in the ordinance, such that both staff and members of the public have a better understanding of the types of structures and/or elements of structures that would fall under the purview of the Commission.  
*(Recommended by Full Board on 12/4/06)*
- #434-06      ALD. YATES requesting a comparison of demolition delay ordinances of other communities, the model of the Mass Historic Commission, and other sources with Newton's demolition delay ordinance.[11-17-06@9:52 PM]
- #248-07      ALD. YATES proposing to amend the "demolition delay ordinance" to exclude from review the partial demolition of architectural features not visible from a public or private way or a public park or open space. [8-7-07 @2:05 PM]
- #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.
- #247-07      ALD. YATES proposing to amend the "demolition delay ordinance" to assign demolition delay review for properties in the same zip code as a local historic district to the district commission that oversees that district. [8-7-07 @2:05 PM]
- #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. **(Item referred to Task Force)**

- #137-05(2) ZONING & PLANNING COMMITTEE proposing that Footnote 7 of Section 30-15 be deleted and replaced with the following language:  
”FAR requirements shall apply only to one or two family residential structures and only in the following instances:  
(1) to all above-grade new construction of a one or two family residential structure, including reconstruction or replacement of an existing one or two family residential structure or other structure being converted to a one or two family residential structure; or  
(2) to alteration or enlargement of an existing one or two family residential structure, or other structure being converted to a one or two family residential structure, that adds gross floor area which lies in whole or in part outside the walls, i.e., the existing footprint, of such structure; or  
(3) in a multi-residential zoning district, to construction of any residential dwelling unit which lies in whole or in part outside the walls, i.e., the existing footprint, of any existing residential dwelling unit, regardless of whether such construction does or does not increase the number of dwelling units on the lot.”
- #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]
- #219-06 ALD. PARKER, MANSFIELD, HESS-MAHAN, & FISCHMAN requesting discussion of an ordinance that would 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.
- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #294-03 ALD. BAKER, YATES, JOHNSON AND MANSFIELD requesting analysis and discussion of possible remedies for demolition of modest housing and replacement with oversized structures out of character with the surrounding neighborhood, including examining the experience of

other communities, including those out of state, who have worked to address this problem. **(Recommitted by Full Board 8-14-06)**

#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.

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

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.

#334-04 ALD. HESS-MAHAN proposing that Sections 30-1, 30-8(d) and 30-9(h) relative to accessory apartments be amended.

#133-03 ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.

#20-99 ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.

#291-95 ALD. PARKER, BALSER, LIPSITT, MANSFIELD, & SAMUELSON requesting that Sec. 30-24 of the City of Newton Rev. Ords., 1995, be amended to require all large commercial development(s) to make a cash payment to be used for affordable/low-income housing. Such payments to be calculated individually for each development on the basis of costs incurred by the city; demands on infrastructure and services; increased need for area affordable housing; and other impositions to the city and community that result from the construction of such projects.

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

#440-04 ALD. JOHNSON, BAKER & LAPPIN proposing a definition of "accessory structure" which will include mechanical equipment.

- #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.
- #303-07 ALD. JOHNSON, ALBRIGHT, HESS-MAHAN, LINSKY & SANGIOLO proposing to amend Chapter 30-24(f) to revise provisions requiring inclusion of low-income housing units in certain residential developments, by so doing encourage multi-family developers to seek approval under Newton zoning rather than under Chapter 40B. [1-3-07@9:29; AM]
- #345-07 ALD. BURG, VANCE, HESS-MAHAN, SALVUCCI, DANBERG requesting revision of the special permitting process for signs. [10-23-07 @3:19 PM]
- #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
- #333-97(2) ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM] (**Hearing closed September 24, 2007; 90 days 12/23/07**)
- #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. (**Hearing closed 4/23/07; 90 days 7/22/07**)
- #193-06 ALD. VANCE proposing an ordinance that would require the owner of any residential property who is not otherwise required to give written notice to abutters and others of proposed modifications of the owner's residential structure to provide such written notice prior to the filing by such owner of an application for the building permit to construct such proposed modifications.

- #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.
- #237-01      ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to clarify the definitions of and specify the distinctions between restaurants, retail food establishments, fast food establishments, and food processing and preparation as allowed and permissive uses in Business, Manufacturing and Mixed Use Districts.
- #238-01      ALD. MANSFIELD & SAMUELSON proposing to amend Sec. 30-1 and 30-11(g)(5) of the Revised Zoning Ordinances to clarify the definition of and restrict the permissive use “drive-in food service establishment” to Limited Manufacturing Districts only.
- #239-01      ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to establish a definition of and to specify appropriate zoning districts in which to conduct food catering businesses.
- # 86-02      ALD. MANSFIELD proposing to amend Secs. 30-11(a)(9) and 30-11(d)(9) to require a special permit for restaurants having not more than 50 seats that are within 300 feet of a Residence District.
- # 7-99      ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- #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 and Planning Committee on June 10, 2002 about how to reduce the possibility of further over development in Thompsonville and ways to measure its impact.
- #59-03      ALD. SANGIOLO proposing amendments to Chapter 30-19 Section (j), *Lighting, Surfacing, and Maintenance of Parking Facilities*.
- #287-01      ALD. SANGIOLO proposing an ordinance to require a permitting process for the construction of parking lots.

#371-01 ALD. PARKER, YATES, SANGIOLO, BASHAM, LIPSITT proposing an ordinance to require an appropriate review and approval process to control drainage and other environmental impacts in cases of major excavation or other topographic changes.

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

#358-07 HIS HONOR THE MAYOR submitting the FY09-FY13 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter which requires Board of Aldermen approval of a plan to finance \$194,907,647 of new local projects over the next several years:

SUMMARY

PUBLIC WORKS (CITY AND GRANT/FEE FUNDED)	\$ 67,632,500
PUBLIC SAFETY	\$ 6,230,535
PUBLIC BUILDINGS	\$ 16,772,295
SCHOOL DEPARTMENT	\$ 94,259,767
PARKS AND RECREATION	\$ 7,366,000
OTHER	\$ 2,646,546
TOTAL	\$194,907,647

Respectfully submitted,  
Brian Yates, Chairman