

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, SEPTEMBER 8, 2008

7:45 PM

Aldermanic Chamber

Hearing opened June 24, continued to September 8, 2008

#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 opened June 24, continued to September 8, 2008

#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 opened June 24, continued to September 8, 2008

#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.

Following the public hearings, the committee will convene in room 202 to take up #108-07, above and the re-appointments, below.

Resumes for the following re-appointees/changes in appointment are attached.

Re-appointment by His Honor the Mayor

#232-08 DOUGLAS G. DICKSON, 17 Oxford Road, Newton Centre, re-appointed as a member of the CONSERVATION COMMISSION for a term to expire April 30, 2011 (60 days: 9/12/08)

Change in status of Appointment by His Honor the Mayor

#233-08 DONALD LANG, 999 Chestnut Street, Newton Upper Falls, currently an *alternate* member of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION appointed as the *permanent* Newton Historical Commission representative member for a term of office to expire July 1, 2010 (60 days: 9/12/08).

Re-appointment by His Honor the Mayor

#234-08 JAMES H. MITCHELL, 83 Countryside Road, Newton Centre, re-appointed as an associate member of the ZONING BOARD OF APPEALS to a term to expire February 1, 2009 (60-days: 9/12/08).

Re-appointment by His Honor the Mayor

#279-08 JOSEPH G. COSGROVE, 125 Shornecliffe Road, Newton, re-appointed as a member of the ZONING BOARD OF APPEALS for a term to expire September 30, 2011 (60 days: 10-10-08).

Re-appointment by His Honor the Mayor

#280-08 VINCENT FARINA, 24 Manemet Road, Newton Centre, re-appointed as an *associate* member of the ZONING BOARD OF APPEALS for a term to expire September 1, 2009 (60 days: 10-10-08).

Re-appointment by His Honor the Mayor

#281-08 BROOKE K. LIPSITT, 54 Kirkstall Road, Newtonville, re-appointed as a member of the ZONING BOARD OF APPEALS for a term to expire September 30, 2011 (60 days: 10-10-08).

Re-appointment by His Honor the Mayor

#282-08 BERNARD F. SHADRAWY, 789 Commonwealth Avenue, Newton Centre, re-appointed as a member of the ZONING BOARD OF APPEALS for a term to expire September 1, 2011 (60 days: 10-10-08).

Re-appointment by His Honor the Mayor

#283-08 WENDY PENNEBAKER MATTHEWS, 44 Concolor Avenue, Newton, re-appointed as a member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2012 (60 days: 10-10-08).

Change of status of appointment by His Honor the Mayor

#284-08 ALFRED WOJCIECHOWSKI, 43 Halcyon Road, Newton Centre, currently an alternate member, appointed as a regular member of the HISTORICAL COMMISSION for a term to expire January 1, 2009 (60 days: 10-10-08).

Re-appointment by His Honor the Mayor

#302-08 SETA DER HOHANNESIAN, 14 Summer Street, Newton Upper Falls, re-appointed as a resident member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2012 (60 days: 11/1/08).

Re-appointment by His Honor the Mayor

#303-08 DAVID MORTON, 148 Edinboro Street, Newtonville, re-appointed as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2012 (60 days: 11/1/08).

Re-appointment by His Honor the Mayor

#304-08 RALPH ABELE, 15 Page Road, Newtonville, re-appointed as an alternate member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2012 (60 days: 11/1/08).

Items assigned for public hearings on September 22:

#110-07(2) ALD. HESS-MAHAN proposing that §30-15(t), **Dormers**, as established by Ordinance Z-20, dated April 7, 2008, be amended by repealing the provision prohibiting dormers in accessory structure except by special permit.

#236-08 ALD. HESS-MAHAN proposing that the definition of “floor area, gross” in §30-1 be amended to clarify that the floor area in a half-story located immediately above the first floor is included in the calculation of floor area ratio.

Business not yet scheduled for discussion:

Appointment by the Board President

#320-08 RICHARD LIPOF, 105 Baldpate Hill Road, Newton Centre, appointed to the ANGINO FARM COMMISSION as the at-large citizen appointee of the Board of Aldermen for a term to expire September 02, 2011. [09-02-08 @ 10:00 AM]

Appointment by His Honor the Mayor

#235-08 ROBERT GIFFORD, 41 Oxford Road, Newton Centre, appointed as member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire September 1, 2011 (60 days: 9/12/08).

- #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).
- #150-08 ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4-15-08 @2:17PM]
- #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.
- #110-08 ALD. YATES asking the Economic Development Commission why the City of Newton has attracted fewer biotechnology companies than other suburbs despite the existence of an ordinance intended to encourage such development. [3-3-07 @11:01 PM]
- #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]
- #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).

- #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. **(Recommended 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.
- #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) 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 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 & Planning Committee on 6/10/02 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.

Respectfully submitted,
Brian Yates, Chairman