

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, NOVEMBER 24, 2008

Present: Ald. Yates (Chairman), Ald. Baker, Ciccone, Danberg, Harney, Linsky, and Swiston; absent: Ald. Lappin; also present: Ald. Hess-Mahan
City staff: John Lojek (Commissioner of Inspectional Services), Marie Lawlor (Associate City Solicitor), Jen Molinsky (Planning), and David Norton (Inspectional Services)

Prior to the meeting, Mr. Lojek introduced the new building inspector David Norton.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#397-08 HIS HONOR THE MAYOR requesting to appropriate and expend One-hundred fifty three thousand three hundred dollars (\$153,000) from Free Cash to the Purchasing Department for the purpose of purchasing three hybrids and seven economy vehicles for the Assessing and Inspectional Services Departments.

FINANCE APPROVED 4-3-1 (Coletti, Johnson and Gentile opposed; Parker abstaining) SUBJECT TO 2nd CALL on 11-24-08

ACTION: APPROVED 5-0-2 (Ciccone and Harney abstaining)

NOTE: Commissioner Lojek explained that his department would get seven of the cars purchased with this money. Currently, four of his staff has no city cars at all and two have cars in poor condition. (See attachment.) The new cars will still require swapping of cars among the staff, but will make their functions of visiting sites for inspections much easier. Inspectional Services will receive five Ford Focuses and two Prius hybrids. Hybrids would seem to be suited to the short trips by inspectors within the city. Mr. Lojek didn't disagree, but noted that his need – not completely met even with the new purchases – for a large number of cars indicates that the cheaper Ford Focus (\$12,000 each) is preferable than the more energy efficient but more expensive hybrids (\$18,000 each). Smart Cars are even more expensive. Several members raised questions about the quoted prices and possible way to get the same cars for less. However, ultimately, the Committee agreed that the cost, not the cars themselves, was a Finance Committee issue and voted to approve the item 5-0-2, with Aldermen Ciccone and Harney abstaining.

#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 9-8-08)**

ACTION: NO ACTION NECESSARY 7-0

NOTE: The Planning and Law Departments concluded that the difficulty found by the Zoning Task Force was inherent in this provision, i.e., exempting older non-conforming houses from some side setback provisions often imposes burdens on adjacent homes. How many times does one property get to use the de minimis provision? Many of the provisions developed by the Task Force and the Committee were valid but the problem needs a fundamentally different perspective. The Committee thanked the Task Force and the departments for their hard work and voted No Action Necessary 7-0, with the understanding that a follow up item will be developed and docketed.

#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 9-8-08)**

ACTION: NO ACTION NECESSARY 7-0

NOTE: This item originated to allow victims of fire or other disasters to rebuild their damaged homes. In practice, it became an enormous loophole, allowing developers to get around the newer dimensional controls while not preserving any portion of the existing home. After detailed review, the Planning and Law Departments found that other provisions of the Zoning Ordinance did allow for replacement of damages or destroyed homes and recommended that this extremely troublesome footnote be repealed. The Committee agreed and voted No Action Necessary with the expectation that a new item to repeal Footnote 7 should be filed, heard, and acted upon in the New Year.

The Committee again thanked the Task Force and staff for their long hard work.

All other items were held without discussion.

Respectfully submitted,

Brian Yates, Chairman