

NMCITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, JANUARY 22, 2007

Present: Ald. Yates (Chairman), Ald. Johnson, Burg, Danberg, Baker, and Weisbuch; absent: Ald. Lappin and Sangiolo;

Also present: Ald. Vance, Fischman, and Linsky

Planning Board members: David Banash, Carol Beard, Joseph DiDuca, Mary Jo Peterson, and Lorraine Salvucci

City staff: Juris Alksnitis, Chief Zoning Code Official; Linda Finucane, Chief Committee Clerk; and Marie Lawlor, Assistant City Solicitor

Appointment by His Honor the Mayor

#469-06 JAMES H. MITCHELL, 83 Countryside Road, Newton Centre, appointed as an *associate* member of the ZONING BOARD OF APPEALS (filling the associate member position vacated by Catherine Clement) for a term of office to expire on February 1, 2008. (Board action 2-9-07) [12-6-06@3:03PM]

ACTION: APPROVED 5-0 (Weisbuch not voting)

NOTE: Mr. Mitchell joined the committee. An attorney specializing in real estate, he is a lifelong resident of Newton and serves on the Licensing Board. As an associate member of the ZBA, he will focus on balancing zoning regulations with the rights of property owners. Alderman Baker moved approval of Mr. Mitchell's appointment, which motion carried unanimously.

PUBLIC HEARINGS WERE HELD ON THE FOLLOWING ITEMS:

#333-97 ALD. YATES proposing to amend the zoning ordinance to require a special permit for the subdivision of property where such subdivision would reduce the level of service for traffic at the intersection of the subdivision with a public way by one level of service or more.

ACTION: HEARING CONTINUED TO MARCH 26, 2007

NOTE: Alderman Yates stated that he had not yet had time to respond to the suggestions offered by the Planning Department but hoped to do so by the time of the continued hearing.

#391-06 ALD. VANCE & BAKER proposing that Chapter 30 be amended by:

- (1) adding to the statement of purpose in section 30-2 a reference to promoting sustainable building practices and conserving natural resources and energy;
- (ii) including in section 30-24(d) as a required criterion for approval of special permits involving construction a showing that the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state, and federal standards in achieving efficient use and conservation of natural resources and energy;

- (iii) inserting a new provision in section 30-24 requiring that for applications for special permits authorizing construction of new building(s) and/or structures, or additions to existing building(s) and/or structure(s), if such new construction and/or addition(s) contain individually or in the aggregate 20,000 or more square feet in gross floor area, the applicant shall submit evidence that the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state, and federal standards in achieving efficient use and conservation of natural resources and energy; and
- (iv) including in section 30-23(c)(2) as a criterion for approval of site plans for projects containing 20,000 or more square feet in gross floor area of new construction of building(s) and/or structures, or of addition(s) to existing buildings and/or structure(s), a showing that the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state, and federal standards in achieving efficient use and conservation of natural resources and energy.

ACTION: HEARING CONTINUED TO MARCH 26, 2007

NOTE: Alderman Vance and Baker presented the item initially. They deferred responses to specific questions about the text to Phil Herr, Chair of the Comprehensive Planning Advisory Committee. Mr. Herr explained that the inclusion of the concept of energy conservation in the purposes of the Zoning Ordinance is part of the Recommendations of the Comprehensive Plan. He views it as “non-prescriptive” and principally as a way of encouraging developers in the city to consider possible means of compliance. Chairman Yates, a member of the CRAC, said that the language before the Committee seemed in fact to be very proscriptive because the introduction to the list of Energy Conservation standards and other examples of compliance seemed to be very rigid and mandatory, rather than semi-optional as stated by the speaker. Chairman Yates also questioned how petitioners could know if they were exceeding current laws since none of the specific laws was cited. Mr. Herr explained that all petitioners would have to comply with the current laws and that complying with any of the cited standards or examples would constitute exceeding them. The Chair therefore asked if the references to the existing standards could be dropped, and the introductory language to means of compliance could be changed to convey more precisely the intent that the speaker had given. Mr. Herr said that it could. The Chair asked if the description of purposes in the Site Plan Review section could be shortened and if the limited targeting of energy conservation to developments at 20,000 square feet or more could be removed so that energy conservation would be part of all site plan reviews. Mr. Herr agreed to that all these suggestions were within the intent of the amendment.

Alderman Weisbuch asked if this language had been discussed with members of the development community in the city. Mr. Herr said that it had been discussed at length with several architects active in the city, most notably Deborah Crossley and Anatol Zuckerman (Ms. Crossley later spoke in favor of the amendment. Mr. Zuckerman later raised several conceptual questions about the amendments). Alderman Weisbuch pressed him for names of builders who had been involved in the discussions. (Builder Dino Rossi would later speak on the item, suggesting that the energy

conservation standards should apply to by-right developments as well as special permits. The proponents said that they wanted to start with a more limited number of developments until the feasibility of the approach had been proven by experience. Mr. Rossi also felt that a listing of the energy conservation components of developments would achieve the energy conservation purposes of the item.

Mr. Herr finally cited the example of Josephine McNeill of CAN-DO, the developer of Millhouse Commons and Linden Green in Upper Falls as a builder involved in the development of the item

Chairman Yates asked what the meaning of the term “regenerative restoration” as one of the examples of compliance was. Neither Mr. Herr nor any other speakers were able to provide a specific example though they said that much of the language was based on a model Cambridge Ordinance. Former Alderman Brooke Lipsitt spoke in favor of the item on behalf of the High Performance Building Coalition. The Coalition supports the general concept, but will accept any reasonable changes. Speakers for the Green Decade Coalition and the League of Women Voters offered similar statements.

There appeared to be general support for the concept of the item on the Committee but great uneasiness on the details of it. Therefore, the Chair accepted the recommendation of the Planning Department that the hearing be continued until March 26 to allow the language to be further refined to respond to the concerns raised earlier.

Respectfully submitted,

Brian Yates, Chairman