

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

THURSDAY, OCTOBER 18, 2007

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

City staff: Linda Finucane Chief Committee Clerk

#327-05(2) CAROLYN CONNOLLY, KAREN LENTO GAZARIAN, CHRISTOPHER SAHAGIAN, TRUSTEES of CHESTNUT CROSSING CONDOMINIUM TRUST/NATIONAL ARCHITECTURAL TRUST requesting *release* from a Preservation Restriction Agreement granted to the National Architectural Trust by the Board of Aldermen on November 7, 2005 for property at 1003-1009 Chestnut Street, Newton Upper Falls. [6-29-07 @11:21 AM]

ACTION: APPROVED 5-0

NOTE: Trustee Carolyn Connolly explained to the Committee that she and her fellow trustees had misunderstood the terms of the Agreement and miscalculated the tax benefits as the end of the tax year approached. They subsequently found that the arrangement was not as beneficial as they thought it would be because the owners comprise a trust. Since the restriction is on a property protected in an Historic District, the Committee voted 5-0 to approve the release, noting that in the future restrictions proposed at the end of the year and from condominium trusts should be scrutinized very carefully.

Appointment by His Honor the Mayor

#261-07 FELIX ZEMEL, 847 Washington Street, Newton, appointed as an *Alternate member* of the PLANNING & DEVELOPMENT BOARD for a term expiring February 1, 2010 (60 days 11-3-07).

ACTION: APPROVED 5-0

NOTE: Mr. Zemel explained his background to the Committee. Prior to moving to Newton this past March, he was a life-long resident of Marblehead where he was an elected member of the Planning Board. Employed with the Metropolitan Boston Housing Partnership, his responsibilities include inspecting units to ensure compliance with HUD, HQS and MA DHCD job guidelines and assisting inspectors in interpreting and implementing HQS and DHCD regulations including State Fire Prevention Regulations and State Plumbing, and Building Codes. As an alternate member, he will be available to attend most meetings to ensure a voting quorum. Mr. Zemel looks forward to putting his experience to use in Newton. The Committee thanked him and upon a motion by Alderman Lappin, approved his appointment 5-0.

The following re-appointees, whose resumes were attached to the agenda and who are well known for their service to one or more members of the Committee, were approved unanimously.

Re-appointment by His Honor the Mayor

#238-07 RICHARD ALFRED, 73 Grove Street, Auburndale, re-appointed as a *full member* of the AUBURNDALE HISTORIC DISTRICT COMMISSION for a term to expire June 30, 2010 (60 days 10/12).

Re-appointment by His Honor the Mayor

#239-07 ITALO VISCO, 66 Grove Street, Auburndale, re-appointed as a *full member* of the AUBURNDALE HISTORIC DISTRICT COMMISSION for a term to expire June 30, 2010 (60 days 10/12).

Change of Appointment by His Honor the Mayor

#240-07 JAMES GROSS, 80 Highland Avenue, Newtonville currently an *alternate member* of the NEWTONVILLE HISTORIC DISTRICT COMMISSION, appointed as a *regular member* for the remainder of his term of office expiring January 1, 2008 (60 days 10/12/07).

Change of Appointment by His Honor the Mayor

#241-07 MARI WILSON, 30 Foster Street, Newtonville currently a *regular member* of the NEWTONVILLE HISTORIC DISTRICT COMMISSION, appointed as an *alternate member* for the remainder of her term of office expiring January 1, 2009 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#242-07 JOHN WYMAN, 47 Old Orchard Road, Chestnut Hill, re-appointed as a *regular member* of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION for a term of office expiring July 1, 2010 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#243-07 ROBERT IMPERATO, 249 Watertown Street, Nonantum, re-appointed as a *regular member* of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION for a term of office expiring July 1, 2010 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#244-07 CHARLES EISENBERG, 4 Ashford Road, Newton Centre, re-appointed as a *regular member* of the ECONOMIC DEVELOPMENT COMMISSION for a term of office expiring August 17, 2010 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#245-07 BRUCE GOLD, 115 Annawan Road, Waban, re-appointed as a *regular member* of the ECONOMIC DEVELOPMENT COMMISSION for a term of office expiring August 17, 2010 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#246-07 JANE IVES, 34 Lucille Place, Newton Highlands, re-appointed as a regular member of the ECONOMIC DEVELOPMENT COMMISSION for a term of office expiring August 17, 2010 (60 days 10/12/07).

Re-appointment by His Honor the Mayor

#286-07 CAROL ANN SHEA re-appointed as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire October 1, 2010 (6-days 9-13-07).

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

ACTION: REFERRED TO THE 2008-2009 BOARD 5-0

NOTE: Alderman Baker explained that the Land Use Reform Law had been blocked by a combination of forces due to its comprehensive nature, particularly the proposed repeal of the Dover Amendment. With that proposal eliminated a new version, the Comprehensive Planning Act has been introduced in the current session. Please see attachment.

#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: NO ACTION NECESSARY 5-0

NOTE: The subject of this item is covered by a later item, #333-97(2)

#376-04 ALD. YATES requesting an amendment to Sec. 22-75 to allow the Economic Development Commission to exercise all the powers of an economic development and industrial corporation under Chapter 121 C of the General Laws upon a finding by the Board of Aldermen that there exists in the city conditions of unemployment or threat of future unemployment.

ACTION: NO ACTION NECESSARY 5-0

NOTE: The EDC has shown little interest in this item.

#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]

REFERRED TO THE 2008-2009 BOARD 5-0

#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)**

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 2008:

#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.”

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 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. [04-10-07 @4:17 PM]

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 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. [04-10-07 @4:17 PM]

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 2008:

#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. [04-10-07 @4:17 PM]

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 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. [04-10-07 @4:17 PM]

REFERRED TO THE 2008-2009 BOARD 5-0

PUBLIC HEARING TO BE ASSIGNED FOR JANUARY 28, 2008:

#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." [5-1-07 @2:23 PM]

REFERRED TO THE 2008-2009 BOARD 5-0

#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]

REFERRED TO THE 2008-2009 BOARD 5-0

#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. 2-12-07 @3:18PM

REFERRED TO THE 2008-2009 BOARD 5-0

#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]

REFERRED TO THE 2008-2009 BOARD 5-0

#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.

REFERRED TO THE 2008-2009 BOARD 5-0

#365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.

REFERRED TO THE 2008-2009 BOARD 5-0

ITEM RECOMMITTED 8/14/06

- #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.
REFERRED TO THE 2008-2009 BOARD 5-0
- #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.
REFERRED TO THE 2008-2009 BOARD 5-0
- #10-06 ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in the City of Newton.
REFERRED TO THE 2008-2009 BOARD 5-0
- #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.
REFERRED TO THE 2008-2009 BOARD 5-0
- #334-04 ALD. HESS-MAHAN proposing that Sections 30-1, 30-8(d) and 30-9(h) relative to accessory apartments be amended.
REFERRED TO THE 2008-2009 BOARD 5-0
- #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.
REFERRED TO THE 2008-2009 BOARD 5-0
- #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.
REFERRED TO THE 2008-2009 BOARD 5-0
- #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.

REFERRED TO THE 2008-2009 BOARD 5-0

#440-04

ALD. JOHNSON, BAKER & LAPPIN proposing a definition of “accessory structure” which will include mechanical equipment.

REFERRED TO THE 2008-2009 BOARD 5-0

Respectfully submitted,
Brian Yates, Chairman