

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, JUNE 26, 2006

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

City staff: Juris Alksnitis (Chief Zoning Code Official), Linda Finucane (Chief Committee Clerk), Michael Kruse (Director of Planning & Development), Marie Lawlor (Assistant City Solicitor)

#239-06 JONATHAN SALES, 1429 Centre Street, Newton Centre, appointed by His Honor the Mayor as an *Alternate Attorney Member* of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire July 1, 2009 (60 days 8/4/06).

ACTION: APPROVED 4-0 (Ald. Danberg and Sangiolo not voting)

NOTE: Mr. Sales is an attorney newly returned to Newton, his childhood home. He has offered his service to the Mayor to help preserve the quality of life he remembers, while allowing for healthy growth. Nominated to the alternative attorney seat on the Upper Falls District Commission, he has not yet attended a meeting, but will be given an informational package to familiarize himself with the district, e.g., the original historic district report, the walking tour brochure etc. Alderman Yates suggested reading *Makers of the Mold*, an Upper Falls village history, available at the Friends of Hemlock Gorge website (www.hemlockgorge.org). Alderman Yates also pointed out if Mary Immaculate of Lourdes (<http://www.maryimmaculateoflourdes.org>) church in Upper Falls were to be closed, the district commission would need to maintain control of any changes to its Romanesque architecture and stained glass windows so Mr. Sales should familiarize himself with them. With that, Alderman Yates moved approval, which carried 4-0, with Aldermen Danberg and Sangiolo not voting.

REFERRED TO PROGRAMS & SERVICES, ZONING & PLANNING & FINANCE

#119-06 ALD. SALVUCCI requesting revocation of the Community Preservation Act (accepted by the Board of Aldermen as item #64-01(2) on 7/9/01 and approved by public vote at the 11/6/01 election) by vote by the Board of Aldermen and referral to the voters of Newton, pursuant to GL chapter 44B, Sec.16.

PROGRAMS & SERVICES DENIED 6-0 on 5-10-06

ACTION: DENIED 5-0 (Alderman Danberg not voting)

NOTE: Aldermen Yates and Johnson both stated that Alderman Salvucci does not wish to repeal the CPA, but merely to put in on the ballot, as he believes was the expectation of voters when it passed five years ago. Because of technicalities in the law, the only possible course of action to make changes in terms of Newton accepting a different rate or different exemptions, e.g., adding senior citizens or low-income exemptions and the deductible for the first \$200,000 of property value, is to first repeal acceptance of the Act and re-accept it with different provisions. Since neither question could be on the state ballot this year and would have to wait for the 2007 city ballot. The committee concurred with the Programs and Services Committee, voting 5-0 to deny

the item. Alderman Johnson noted that item #199-06(2), currently in Programs & Services, proposes a non-binding referendum in 2007.

#102-06 KESSELER DEVELOPMENT, LLC proposing to amend to Section 30-15, DENSITY & DIMENSIONAL CONTROLS IN RESIDENTIAL DISTRICTS AND FOR RESIDENTIAL USES, by inserting in Table 1 the following new footnote 9 as follows:

(9) allow by special permit in a Multi-Residence 3 District a multi-family dwelling structure to have a maximum building height of 48 feet and a maximum number of stories of 4, provided that there is a minimum lot size of 10 acres, the distance from the street to such multi-family dwelling structure is no less than 150 feet and the distance between such structure and abutting properties is no less than 75 feet.

2nd public hearing 6/12/06; 90 days 9/10/06

(1st Public Hearing 3/14/06; 90 days 6/12/06

Zoning & Planning approved on 4/10/06 w/the addition of MR 4 setbacks 4-2-1 (Baker, Lappin, Danberg, Sangiolo voting in the affirmative; Burg and Weisbuch opposed; Yates abstaining)

Item recommitted by the Full Board on 4/18/06)

or

(9) allow by special permit in a Multi-Residence 3 District a multi-family dwelling structure to have a maximum building height of 48 feet and a maximum number of stories of 4, provided that there is a minimum lot size of **3** acres, the distance from any street(s) abutting the lot to such multi-family dwelling structure is no less than 150 feet and the distance between such structure and abutting properties is no less than 75 feet; **and the front, side and rear setbacks for the lot are 50 feet from the lot line.**

ACTION: HELD 6-0

NOTE: After two public hearings and several discussions, this Kessler-inspired amendment was discussed at length again. The committee on April 10 approved the new footnote as proposed by Cornerstone with the addition of front and rear setbacks. The item was recommitted on April 18 because several Aldermen wished to revisit the minimum lot size of 3 acres recommended by the Planning Department v. the 10 acres proposed by Cornerstone, particularly as it would relate to potential development of the few large parcels of land remaining in the city, e.g., the golf courses. The Planning Department admitted that it suggested 3 acres simply to be consistent with the existing 3-acre requirement in a Multi Residence 4 district, but said it actually does not matter if it is 10 or 3 acres because of the lot size per unit requirement in section 30-15 and the necessity for obtaining a special permit.

The text advertised is above. Option one, with 10 acres, was proposed by Cornerstone, although since the close of the first hearing Cornerstone has indicated that 3 acres is fine. Option two, with 3 acres, is from the Planning Department recommendation and includes the setback requirement approved by the committee on April 10. The committee agreed it wished to retain the building

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placement and setbacks, but could not agree on a minimum lot size. Alderman Baker moved approval of option 2, with 5 acres instead of 3 acres. Alderman Burg said that it seemed to have no planning rationale. Mr. Kruse pointed that 5 acres is the minimum lot area required for *Open Space Preservation Development*. Alderman Yates disagreed that the two are related, e.g., if an owner had the option of re-zoning a 5-acre parcel to MR3, the open spaces development provision would never be used. Alderman Baker's motion failed 3-3 with Aldermen Johnson, Sangiolo and Yates opposed. A motion to approve option 2 as written also failed; however, a motion by Alderman Yates to reconsider the 3-acre vote passed and, again, a motion to approve 3 acres failed 3-3 with Aldermen Yates, Johnson, and Sangiolo opposed. Finally, a motion by Alderman Baker to approve 10 acres with the setback requirement also failed 3-3, with Aldermen Burg, Johnson, and Sangiolo opposed.

Discussion ensued about the uses allowed in MR3 and MR4 districts. Alderman Yates felt that the consistency of the minimum lot area with the MR4 district touted by the Planning Department does not follow the pattern of the ordinance in which lot areas start larger and decrease, then at the minimum lot level allow by special permit a more intensive use.

Messrs. Alksnitis and Kruse noted that the commercial use allowed in MR4 is more intense than MR3 would allow. Alderman Yates said that the intention of convenience uses, i.e., a hairdresser or small store, is to reduce residents' driving for everyday needs. Alderman Sangiolo felt that the difference between the two zones was blurred. Alderman Johnson did not see the rationale for the changes to the item as originally proposed.

Mr. Kruse explained that a 10-acre lot built out to the special permit limit of MR3 is the same as three 3-acre lots built out. Alderman Yates argued that a 10-acre minimum would result in less land developed. (See attachment.)

Since no clear path to a majority seemed open and since there is an extension of time for the special permit petition and the map change will be re-heard on July 11 in Land Use Committee, and both are dependent on this amendment, the committee voted to hold the item until July.

Respectfully submitted,

Brian Yates, Chairman