

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 2006

Present: Ald. Yates (Chairman), Ald. Sangiolo, Lappin, Baker, Burg, Danberg, Johnson, and Weisbuch; also present: Ald. Hess-Mahan, Gentile, Harney, and Parker

Planning Board members: David Banash, Lorraine Salvucci, Chris Dame, and Joyce Moss

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

PUBLIC HEARINGS WERE HELD ON THE FOLLOWING ITEMS:

#268-06 ANATOL ZUKERMAN et al submitting a petition to change the zone from SINGLE RESIDENCE 3 to MULTI RESIDENCE 1 for the following properties:

NOBLE STREET: nos. 2-4, 8-10, 9-11, 14-16, 15-17, 20-22, 21-23, 26-28, 27-29, 32-34, 35, 38-40, 39-41, 44, 45-47, 50-52, 51-53, 54-56, 57-59, 60-62.

DERBY STREET: nos. 255 and 261

MILO STREET: nos. 12, 16-18, 17-19, 22-24, 23-25, 28-30, 31-33, 34-36, 37-39, 40-42, 43-45, 46-48, 52.

ACTION: HEARING CLOSED

#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 CLOSED

#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; and the front, side and rear setbacks for the lot are 50 feet from the lot line.

HEARING CLOSED

ACTION: **APPROVED 5-2-1 IN WORKING SESSION (Baker, Burg, Danberg, Lappin, and Yates voting in the affirmative; Sangiolo and Weisbuch voting in opposition; Johnson abstaining)**
DRAFT ORDINANCE ATTACHED

NOTE: Thomas Southworth from Cornerstone presented the proposed text amendment. Mr. Southworth explained that the amendment to allow a maximum building height of 48 feet is linked to the map change and special permit proposals currently in the Land Use Committee. Joe Bresman of 81 Rangeley Road, Brookline spoke against the amendment. Mr. Bresman said if this petition and map change and special permit pending in the Land Use Committee are approved, the only gain to be had is the petitioner's, not the neighbors. At the very least, the Brookline abutters would like a minimum of 175' when such a building abuts residences. Ann Freedman of 71 Rangeley Road, Brookline agreed. There was no other comment and the hearing was closed. The committee convened in working session.

Working Session

Aldermen Johnson and Weisbuch have each missed some of the previous two public hearings and four committee discussions so felt the need to ask several questions and ultimately to propose amendments to the item.

Alderman Johnson proposed that the distance between permitted structures and abutting properties be increased to 125 feet from the 75 feet as noticed. Attorney Lawlor was not completely sure if this degree of change would be too different from the item as noticed and thus require a re-hearing if adopted, but felt that it probably would. The motion to amend in this way failed 3-4 1, with Aldermen Danberg, Johnson and Sangiolo voting in favor, Aldermen Baker, Burg, Lappin and Yates opposed, and Alderman Weisbuch abstaining.

Alderman Weisbuch then moved that the minimum lot area be reduced from the 10 acres approved by the Committee and Full Board to 3 acres. Since this alternative had been advertised, the motion was proper; however, it failed 1 to 7, with Alderman Weisbuch in favor.

On Alderman Baker's motion to approve the main item as advertised with the minimum lot area of ten acres, Alderman Johnson reserved her rights to propose her amendment again on the floor of the Board if the Law Department said it could be done without a new hearing and in the alternative to vote against the whole item. Alderman Danberg said that she would vote in favor of the item although she felt the special permit/zone Change was flawed and the implicit linkage of the two troubled her as it did other members of the Committee and Alderman Parker. Alderman Parker felt strongly that it had been improper to admit the general item at the same time as the special permit that it would make legal and that in the future there should be more separation of such items. He urged denial. Alderman Lappin reiterated that the proposed footnote would not allow a by-right development, but would require a special permit from the Board of Aldermen. She also noted that she and the other Ward 8 Aldermen had had a number of meetings with abutters on Harwich Road in Newton.

Mr. Kruse said that denial of the item or the map change/special permit would trigger the fallback position contained in the City's Cooperative Bidding Agreement with Cornerstone that could allow up to 80 units under Chapter 40B. Alderman Parker said that such linkage was exactly what makes proper consideration of this item impossible. The Chair stated that, although there is an obvious relationship between the text amendment before the Committee and the map amendment and special permit before the Land Use Committee, the vote on the text amendment would only make the special permit possible. He repeated that no member should feel obligated to vote for the map amendment or special permit because of his or her vote on this item. Alderman Berg said that she came tonight prepared to cast the pragmatic vote in favor of the item although she favored a smaller minimum lot size. The item was approved with the 10-acre minimum lot area, building placement, distance, and setbacks previously approved twice in Committee and by the full Board by a vote of 5-2-1, with Aldermen Baker, Burg, Lappin and Yates voting in the affirmative, Sangiolo and Weisbuch opposed and Johnson abstaining.

The Committee thus completed its third action on the item and adjourned.

Respectfully submitted,
Brian Yates, Chair