

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, DECEMBER 11, 2006

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

City staff: Juris Alksnitis (Chief Zoning Code Official) and Marie Lawlor (Assistant City Solicitor)

#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. **(90 days 12/24/06)**

ACTION: **DENIED 5-1-1 (Yates opposed; Weisbuch abstaining)**

NOTE: Anatol Zuckerman's letter in response to the Planning Department's recommendation of denial was read aloud and distributed to Committee members. Mr. Zuckerman briefly addressed the Committee. Juris Alksnitis presented the Planning Department's opinion that the item would make little difference to property owners since the two-family homes in the area since its General Residence Zoning Days are nonconforming by dimension as well as by use. Furthermore, single residence zoned properties can be demolished and replaced with larger structures without the restricted floor area ratios imposed on two family zoned properties that are demolished. Alderman Gentile also spoke against the item, saying he had never received a complaint from anyone in the area about the restrictiveness of the current zoning and that zone changes should not be made without a clear-cut benefit to avoid possible unintended consequences. Ultimately, the majority of the Committee felt that there were not enough changed conditions from the denial of the item three years ago to merit its approval at this time and accepted the rationale of the Planning Department. Alderman Yates said that the only significant reason given against the item at the Public Hearing was possible increase in traffic as second units in homes became more intensively used. He found this farfetched and the Planning Department reason that homeowners would lose the right to accessory apartments irrelevant since the second unit in buildings in the proposed multi-residence one district would be a use of right. He found the imposition of an FAR limit on the rezoned properties would be a benefit since neighbors of demolished buildings would be protected from new monster homes out of scale with the rest of the neighborhood and that more of the smaller, more affordable homes might survive. Most of the Committee disagreed and voted to deny the item 5-1-1 with Alderman Yates voting against denial and Alderman Weisbuch abstaining. Alderman Johnson asked that the reports from the discussion of this item three years ago be included with the Committee report.

#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. (90 days 12/24/06)

ACTION: **HELD 7-0**

NOTE: Alderman Yates explained that this item was an attempt to get the Board of Alderman out from under the perpetual threats of by-right subdivisions that would be more detrimental to access to public ways than proposed dubious special permits. He cited the supermarket on Needham Street and the office park on Grove Street as two past instances where such implicit threats were used. The Law and Planning Departments had suggested alternative ways that his goals could be achieved. He agreed to consider these alternatives before rehearing the item in the New Year. The Committee agreed gratefully to postpone the discussion of this baffling item and voted to hold it 7-0.

#433-06 ALD. JOHNSON & INSPECTIONAL SERVICES COMMISSIONER requesting the establishment of civil fines under Section 20-21 to enforce the provisions of Section 20-40, the Fence Ordinance. [11-6-06 @3:22 PM]

ACTION: **APPROVED 7-0**

NOTE: Alderman Johnson explained that when enforcement of the new Fence Ordinance was attempted, it was discovered that no accompanying list of fines had been included in the ordinance leaving the fines at either the draconian \$300 or the lax zero. After some further explanations from Alderman Johnson about the correction that she had developed in cooperation with the Inspectional Services Commissioner and from Marie Lawler about the legal process of enforcement, the Committee voted unanimously to approve the item.

Respectfully submitted,

Brian Yates, Chair

Attachments:

Fence Fine Draft Ordinance

Anatol Zuckerman letter

Previous Committee reports on Re-zoning item