

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, JUNE 27, 2005

Present: Ald. Yates (Chairman), Ald. Johnson, Sangiolo, Lappin, Baker, and Lennon

Absent: Ald. Danberg and Hess-Mahan

Also present: Ald. Merrill and Gentile

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

Planning Board members: Roger Wyner, Chairman, Lorraine Salvucci, Christian Dame, and Joseph DiDuca

#392-04(8) HIS HONOR THE MAYOR requesting that the 2.26 acres of land purchased from the Angino family by the City using Community Preservation funds at 303 Nahanton Street be rezoned from a SINGLE RESIDENCE 1 DISTRICT to a PUBLIC USE DISTRICT.

**PUBLIC HEARING HELD AND CLOSED**

**ACTION:** APPROVED 5-0-1 (Yates abstaining)

**NOTE:** Mr. Kruse explained that the zone change would follow the general city policy of assigning all city properties to the Public Use District established in the 1987 re-zoning. Alderman Yates who was a member of the Zoning Review Committee that established the Public Use and Open Space and Recreation Districts said that in fact all city property went from unzoned to the Public Use District in an item filed by him as a matter of convenience because it would be very cumbersome to list all city properties. He had also placed the Newton Cemetery into the Open Space District and had participated in the unsuccessful effort to place all golf courses within the city in the Open Space District. He wondered if the city would have more ability to persuade private owners to accept placement of their land in the Open Space District by placing some of its land in the District as well. In addition to the farm, Nahanton Park could reasonably be placed in the District as well as portions of the land of the JCC, particularly the site of the community garden, and the buffer land around the Wells Avenue Office Park and the adjacent high-density apartments. It was stated that country clubs like to maintain the option of developing their properties and that no degree of municipal use of the Open Space District would persuade them otherwise.

Alderman Yates also pointed out that agriculture is explicitly allowed in the Open Space District but not in the Public Use District. Mr. Alksnitis pointed out that the structure of the Ordinance placed a different set of dimensional requirements and procedures on properties in the Public Use District and that the city would have more flexibility in the use of the farm under an amended Public Use District than under Open Space zoning.

The Planning Board voted 4-0 to approve the re-zoning as submitted. The Zoning and Planning Committee agreed 5-0-1, with Alderman Yates abstaining.

#18-05(2) HIS HONOR THE MAYOR appointing the following individual as members of the AUBURNDALE HISTORIC DISTRICT COMMISSION:  
(f) PATRICIA ROSSIN, 9 Carver Road, Newton Highlands, realtor, for a term to expire June 30, 2008.

ACTION: APPROVED 6-0

NOTE: Ms. Rossin is a realtor who lives in Newton Highlands. She is familiar with Historic districts from her work in Nantucket where the entire community is subject to district controls. She was recruited for the Commission by fellow realtor and Historical Commissioner Carol Grissom. The Committee thanked her for her willingness to serve and approved her appointment 6-0.

#224-05 NATIONAL ARCHITECTURAL TRUST and JEAN & LELAND FISHER requesting acceptance by the City of a preservation restriction on property located at 954 Chestnut Street, Newton Upper Falls.

ACTION: APPROVED 6-0

NOTE: The Fishers live in the Newton Upper Falls Historic District. Their preservation restriction will cover all the exterior features on their house not just those visible from the street. It will be perpetual unlike a district that could be repealed, and it will prohibit the building from turning into two condos. Such changes have occurred in the area and caused detrimental changes in the character of the buildings. The Committee thanked them for their willingness to preserve their home in this unusual way and voted 6-0 to accept the preservation restriction, which will be held by the National Architectural Trust. William Moonan represented the Trust at the meeting.

#168-05 ALD. YATES proposing that Section 22-92 of the Landmark Ordinance be amended to broaden eligibility for designation as a landmark.

ACTION: APPROVED 4-0-2 (Lappin, Lennon abstaining)

NOTE: A list of fifty-one properties in the city on the National Register and recommended for possible landmarking by a Historical Commission intern several years ago had been sent out with the agenda. Alderman Yates' purpose was to demonstrate that even eligible properties under the current ordinance had not proceeded in the lack of any urgent reason and that the threat that thousands of properties would become eligible to be nominated for landmark status was simply not based in fact. The power to nominate is limited to Aldermen, the Mayor, and the Newton Historical Commission. None of these officials seemed likely to recklessly nominate a property with no historical significance and thus incur public reprobation. Even if one of the others did, the Historical Commission has been parsimonious with its approvals and would be very likely to reject an inappropriate nomination.

For the sake of those members who had missed one or the other of the previous meetings on this item, its history was presented by Alderman Yates. He had suggested to Alderman Gentile that St. Bernard's be nominated as a highly visible and highly historic building under urgent threat of sale and demolition if the Archdiocese chooses to close and sell it. Upon Alderman Gentile's request, Preservation Planner Lara Kritzer collected the necessary historical information on the

church and its rectory and sent it to the Mass Historic Commission (MHC), which makes the determination if the property is eligible to be placed on the National Register of Historic Sites. National Register individual listing or eligibility for listing is a minimum requirement for becoming a City Landmark.

Unfortunately, the MHC found that the church and rectory were indeed eligible for the National Register District but as the anchors of a small National Register Historic District. Even if such a district were to be established, the church could not be designated as a landmark because the current ordinance requires only individually listed properties be considered for landmark status.

This was a Catch-22 that Alderman Yates tried to overcome by removing the words restricting the possible status to individually listed properties. The Planning Director thought that it would cheapen the process by making far too many properties eligible. The Law Department drafted a more extensive revision that would limit eligibility for nominations to properties listed individually or eligible for individual listing and to properties in districts that contribute historically to the district.

Alderman Yates accepted this limitation as more complicated than his means of amendment but as arriving at the same place. He believed that no non-contributing property in an historic district would ever be nominated. Mr. Kruse was still uneasy, but considering the amounts of time and effort expended on this item both at the three meetings and between them, he reluctantly gave his assent. Committee members who approved of the preservation of the St. Bernard's structure had been convinced that any other means of achieving it would be much more difficult and time-consuming, and voted approval 4-0-2 with Aldermen Lappin and Lennon abstaining to think the matter over. The Law Department version was accepted with a slight amendment clarifying that the Commission should consider the historical and architectural significance of potential landmarks.

The Committee then adjourned to the relief of all present.

Respectfully submitted,

Brian Yates, Chairman

Attachments:

List of Uses in Open Space District

List of Uses in Public Use District.

Proposed amendment to Landmark Ordinance

Current Wording of Landmark Ordinance

Note: Ms. Rossin's resume and further backup information on the other items were sent out with previous packets.