

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, MARCH 29, 2004

Present: Ald. Yates (Chairman), Ald. Baker, Hess-Mahan, Johnson, Lappin, Lennon, and Mansfield; absent: Ald. Sangiolo; also present: Ald. Merrill

City officials: Martina Jackson (Chair, Licensing Board), Fred Guzzi (Executive Director, Licensing Board), Michael Baseman (Assistant City Solicitor), Eric Jerman (Senior Planner)

Appointment by His Honor the Mayor

#117-04 DAVID STEIN, 29 Sylvan Avenue, West Newton, appointed as an Alternate member of the PLANNING & DEVELOPMENT BOARD filling the vacancy left by Ernest Siciliano, for a five-year term expiring February 1, 2009 (60-day Board action 4/17/04).

ACTION: NO ACTION NECESSARY 7-0

NOTE: Mr. Stein has withdrawn his candidacy.

# 86-02 ALD. MANSFIELD proposing to amend Secs. 30-11(a)(9) and 30-11(d)(9) to require a special permit for restaurants having not more than 50 seats that are within 300 feet of a Residence District.

NOTE: HELD 6-0-1 (Johnson)

NOTE: This item was held for a possible hearing in May or June. Ald. Mansfield asserted that such small restaurants do cause off-site parking, traffic, and other problems. Ms. Jackson asked if totally empty storefronts creating no traffic or parking would be preferable to small restaurants. Ald. Mansfield said he was not proposing to abolish uses, just restrict them appropriately. His motion to hold passed 6-0-1, with Ald. Johnson abstaining.

#237-01 ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to clarify the definitions of and specify the distinctions between restaurants, retail food establishments, fast food establishments, and food processing and preparation as allowed and permissive uses in Business, Manufacturing and Mixed Use Districts.

ACTION: HELD 7-0

NOTE: The committee agreed to ask the Planning and Law Departments to review definitions and restrictions in similar communities.

#238-01 ALD. MANSFIELD & SAMUELSON proposing to amend Sec. 30-1 and 30-11(g)(5) of the Revised Zoning Ordinances to clarify the definition of and restrict

the permissive use “drive-in food service establishment” to Limited Manufacturing Districts only.

**ACTION:** HELD 7-0

**NOTE:** The sponsors initially had wanted to wipe out such uses in the city, but agreed to limit them to the Limited Manufacturing District in Nonantum where the establishment uses the drive-through as a safety feature. Ald. Yates noted that Limited Manufacturing is also the designation used for the Wells Avenue Office Park (though contract zoning further restricts uses there) and wondered why large enough properly situated lots in Business 2 Districts are not included. Several members cited the negative vote on allowing a drive-through at the Dunkin Donuts located on a small lot small lot on Route 9. The Dunkin Donuts on Washington Street at the Chestnut Street intersection was cited as an example of a site too close to a village center on a street too congested to allow the use.

Ald. Mansfield said he would be fine with the item being altered to deny all drive-throughs. He successfully moved to hold it, 7-0.

#239-01      ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to establish a definition of and to specify appropriate zoning districts in which to conduct food-catering businesses.

**ACTION:** HELD 7-0

**NOTE:** There is no definition and no restriction on this use, despite the potential major impact. It was agreed to hold the item pending Planning Department’s survey of other communities.

#234-02      ALD. PARKER & MANSFIELD requesting discussion of limits on restaurant hours, particularly with respect to criteria and procedures for granting exemptions.

**ACTION:** HELD 7-0

**NOTE:** This discussion yielded results that by state licensing law restaurants had to be allowed to open at 11:00 AM and stay open until 11:00 PM. They can not stay open after 2:00 AM. The Licensing Board has tried to move closing back to 11:00 PM or Midnight, with last call a half-hour before. The state law appears to pre-empt local law. Ald. Baker wanted a written opinion from the Law Department confirming that the city was indeed pre-empted by the state. If so, the matter will be voted No Action Necessary at the April 12<sup>th</sup> meeting. The item was held pending receipt of a memo from the Law Department.

**ITEM REFERRED TO THE 30-15 TASK FORCE:**

#217-00      ALD. YATES requesting that Chapter 30 be amended to require a special permit for the demolition of a structure aged 100 years or more containing one or more residential units in any residential district.

**ACTION:** HELD 7-0

**NOTE:** This item was held for discussion in May.

**ITEM REFERRED TO THE 30-15 TASK FORCE:**

# 7-99      ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.

ACTION:      HELD 7-0

NOTE: The item was held for the 30-15 Task Force, which is awaiting further instruction from this committee.

All other items were held without discussion, and the meeting was adjourned at approximately 10:15 PM.

Respectfully submitted,

Brian Yates, Chairman