

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE  
PUBLIC HEARING NOTES

MONDAY, FEBRUARY 10, 2003

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

Absent: Ald. Mansfield

Also present: Ald. Fischman and Lipsitt

Planning Board members: Roger Wyner (Chairman), Chris Dame, Joyce Moss, Joseph DiDuca, Audrey Cooper, and Joseph Proman

City officials: Michael Kruse (Director of Planning and Development), Juris Alksnitis (Associate Director of Planning and Development), Michael Baseman (Assistant City Solicitor), Linda Finucane (Clerk)

PUBLIC HEARINGS WERE HELD ON THE FOLLOWING ITEMS; BOTH WERE HELD:

#450-02      ANTOL ZUKERMAN et al petition for change of zone from SINGLE RESIDENCE 3 to MULTI RESIDENCE 1 for the following properties on NOBLE STREET, WEST NEWTON: Nos. 2-4, 8-10, 14-16, 20-22, 26-28, 32-34, 38-40, 44, 50-52, 54-56, 60-62, 57-59, 51-53, 45-47, 39-41, 33-35, 27-29, 21-23, 15-17, and 9-11 and for 123-125 WASHINGTON AVENUE.

NOTE: Anatol Zukerman, of 15-17 Noble Street, said this proposed zone change would reflect the actual two-family use of twenty of the twenty-one properties on this block. Most homes are owner occupied and in his opinion have a twofold benefit of providing rental income and somewhat affordable housing in the City. The special permit process is expensive and often difficult for a homeowner who wishes to make modest improvements to a property.

Joseph Russo, 2-4 Noble Street, questioned the benefit of the proposed change. He expressed concern about the potential addition of third units creating further density and congestion in the neighborhood. Elizabeth Drury, 51-53 Noble Street, shared Mr. Russo's concerns. Linda Lancaster, 17 Noble Street, urged passage of the amendment.

At the request of the Chairman, Associate City Solicitor Baseman explained that most properties would continue to be non-conforming structures and that changing the zone from Single Residence 3 to Multi Residence 1 was no guarantee that homeowners would not have to seek special permits, unless the changes proposed fell under the de minimus ordinance. A third unit would require a Special Permit.

Philip Herr, Chairman of the Comprehensive Advisory Committee, speaking personally, questioned the efficacy of rezoning on a street-by-street basis. He pointed out that the land use map v. the zoning map indicates that more than one-third of the existing dwellings would be non-conforming. He suggested a broader interest in the whole area, e.g., Milo Street, where the zoning does not reflect the land use; however, this would not preclude acting in the interim.

Ald. Fischman asked the Law Department for an opinion as to whether this proposal would be considered spot zoning. Ald. Sangiolo and Planning Board member Audrey Cooper both asked why Milo Street was not included. (Mr. Zukerman said he didn't have time to do so.) Ald. Sangiolo asked the Planning Department to do an analysis of the lot sizes of both Noble and Milo Streets to help determine if the proposed change would make it easier or more difficult for owners.

The hearing was concluded and the Chairman noted that this item would be taken up on February 24.

# 20-03      HIS HONOR THE MAYOR, ALD. JOHNSON, LIPSITT, YATES, et al and the Mayor's *Task Force on Inclusionary Zoning* proposing that section 30-24(f) of the City of Newton Revised Zoning Ord., 2001, be amended to provide a mechanism by which residential development may contribute to the provision of additional affordable housing units, the protection of existing affordable housing units, and to encourage diversity of housing opportunities in the City.

NOTE: Mayor David Cohen explained that two years ago he had appointed the *Task Force on Inclusionary Zoning* to review the "ten percent" ordinance because there have been many changes since its inception. For one, people of moderate income find it increasingly more difficult to live in Newton. The proposed amendment maintains protection for low-income units but also focuses on ownership, making eligible families earning 120% of the state median income. It will remove the 40-year expiring use provision, increase the percentage to a straight 15%, simplifying the ordinance and making it easier for developers to comply, and it will gain additional units. In conclusion, the Mayor said this is a well thought out proposal with good purpose and worthy of support.

Ald Johnson, a member of the Task Force, pointed out that only 5% of housing in the City is considered affordable. She also praised the diverse membership of the Task Force.

Attorney Edward Dailey, Chairman of the Task Force, explained that Newton adopted the "ten percent" ordinance in 1977, effective in 1978, and was the first city in Massachusetts to adopt an inclusionary zoning ordinance. Since then the concept of inclusionary zoning has evolved. Two-thirds of Americans live in owner-occupied homes, but escalating housing costs in Massachusetts (which ranks 46<sup>th</sup> in home ownership) have put home ownership beyond the reach of many middle-income people. (The standard used for a home to be considered affordable is that it cost three times the annual income.) Mr. Dailey noted that the amendment would only apply to Special Permits. (Sections re elder housing and hotels will remain the same and it will not apply to accessory apartments.)

Jonathan Hacker, Executive Director of the Newton Housing Authority, indicated that agency's support of the amendment.

Ted Hess-Mahan, 871 Washington Street, President of CANDO and member of UCHAN, said both organizations support the proposal.

Attorney Jason Rosenberg of Newton, a member of the Committee for People with Disabilities, supports the proposal. Mr. Rosenberg, who often appears as Counsel for Special Permit petitioners, said the existing ordinance is too rigid. (Copies of two letters attached.)

Ald. Parker views the proposal as a starting point, not a conclusion. He feels it gives up too much value and that the focus should be on people with the greatest need. Reducing the size of the units to 60% of market rate units will "ghettoize" occupants. He fears the amendment will promote larger developments. Pointing out that the Housing Authority has shied away from accepting large units because of the increased costs, he suggested that a more creative solution might be to use those units for group housing. Ald. Baker asked the Law Department whether the proposal as advertised might be amended. Mr. Dailey explained that the minimum threshold was based on the size of his own house.

Mr. Herr said that an inventory of inclusionary zoning units in Massachusetts, New Hampshire, and Rhode Island had been undertaken several years ago. Newton's ordinance measured against those states "very good." In his opinion, this proposal is a great improvement over the existing ordinance and he urged the Board of Aldermen to move forward with it. The Chairman asked Mr. Herr to provide an executive summary of that study. The Chairman also asked whether any communities were at ten percent. Mr. Herr said both Cambridge and Westwood have attained at least ten percent. (Four more Avalon Bay 40B developments would bring Newton to ten percent; however, other means can help achieve that goal.)

Ald. Lipsitt asked the Planning Department to look at some previously granted special permits to compare the difference in the number of units under the existing and proposed ordinances and, if possible, to project how much additional housing this proposal would gain for the City. She also asked for clarity of the density-offset provision.

Ald. Baker questioned the shift from rental to ownership and how the units will remain affordable if sold. Mr. Dailey explained that a restrictive covenant for the life of the development would limit not only the initial sale, but also the resale and profit.

Ald. Fischman is concerned that the distinguishing aspects, i.e., appliances and finishes, may stigmatize the low- and moderate-income tenants/owners. He also asked about the selection of tenants. The proposed ordinance provides for a marketing and resident selection plan for City of Newton residents and those who work in the City and also refers to the list maintained by the Newton Housing Authority.

The public hearing concluded at approximately 10:35PM. This item also will be taken up on February 24.

Respectfully submitted,

Ald. Brian Yates, Chairman