

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, NOVEMBER 10, 2003

Committee members present: Ald. Yates (Chairman), Ald. Baker, Lappin, Sangiolo, Johnson, Mansfield, and Lennon

Other Alderman: President Lipsitt

Aldermen-Elect present: Harney, Hess-Mahan, and Vance

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

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#501-03 HIS HONOR THE MAYOR requesting that the sum of \$32,832 be appropriated from funds paid to the City by cable franchisees in order to supplement the FY04 Planning Department budget for salaries and benefits. This will allow the Planning Department to convert the part-time transportation planner position to a full-time position.

ACTION: APPROVED 7-0

NOTE: Planning Director Michael Kruse explained this item. Through a series of transfers, the result will be that the part-time transportation planner job filled by Evelyn Adante until she got a full-time in New York City working on the World Trade Center site will become a full-time job. Mr. Kruse distributed a breakdown of the tasks assigned to the position and the ways it will increase in the new funding pattern. Aldermen expressed uncertainty as to which person they should call concerning various traffic matters, the Traffic Engineer or the Transportation Planner. After some explanation still left some members perplexed, he promised to provide additional information in the packet. Since the full-time Transportation Planner was a long-time desire of the Committee, the Committee voted 7-0 to approve it.

Appointment by His Honor the Mayor

#438-03 STEVEN KONOWITZ, 36 Selwyn Road, Newton Highlands, appointed as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire on July 7, 2006 (60-day Board action 12/19/03).

ACTION: HELD 7-0 for 11/24

Appointment by His Honor the Mayor

#439-03 HARVEY CREEM, 100 Huntington Road, Newton, appointed as an ASSOCIATE member of the ZONING BOARD OF APPEALS to fill the vacancy created by the resignation of Francesco DeVito, which term will expire on September 30, 2004 (60-day Board action 12/19/03).

ACTION: HELD 7-0 for 11/24

Appointment by His Honor the Mayor

#440-03 DOUGLAS DICKSON, 17 Oxford Road, Newton Centre, appointed as a member of the NEWTON CONSERVATION COMMISSION to fill the vacancy created by the resignation of Eric Reenstierna, which term will expire on February 16, 2005 (60-day Board action 12/19/03).

ACTION: HELD 7-0 for 11/24

Re-appointment by His Honor the Mayor

#403-03 TRUDY ERNST, 162 Waban Avenue, Waban, re-appointed as an Associate member of the ZONING BOARD OF APPEALS for a term to expire on September 1, 2004 (60-day Board action 12/6/03).

ACTION: APPROVED 7-0

NOTE: Ms. Ernst had been before the Committee earlier this term and members felt comfortable approving her re-appointment.

Re-appointment by His Honor the Mayor

#404-03 JOSEPH COSGROVE, 125 Shornecliffe Road, Newton, re-appointed as an Associate member of the ZONING BOARD OF APPEALS for a term to expire on September 1, 2004 (60-day Board action 12/6/03).

ACTION: HELD 7-0 for 11/24

#331-03 MARK BARTOLOMUCCI, TRUSTEE, petition to change from BUSINESS 1 to MULTI RESIDENCE 2 land known as Section 11, Block 6, Lot 27 located at 109 DALBY STREET, NONANTUM, containing approximately 7,280 square feet of land.

ACTION: APPROVED 6-0-1 (Sangiolo)

NOTE: The Planning Department had recommended against approval, feeling that any reduction of the commercial zone along Watertown Street would harm the entire district. Alderman Lennon and other Committee members pointed out that since the lot faced Dalby Street, was separated from the commercial district by one residentially used lot and faced several residentially used lots; it would not harm the Watertown Street District. Attorney Michael Baseman cited several cases on whether or not this would be spot zoning. Alderman Baker said that since it would be an extension of the adjacent Multi-Residence 2 District, it would probably not be a spot zone. The Committee also needed to back it up with policy recommendations. It was felt that the zone change was in the spirit of previous zone changes recommended by the 30-15 Task Force to match uses to zoning. It was pointed out the nominal current commercial use did in fact match the zoning. Several Aldermen felt that the near-by commercially zoned, residentially zoned

land should be proposed for re-zoning next year, perhaps after review by the Task Force or the Nonantum Advisory Committee or the Nonantum Neighborhood Association. Nevertheless, the Committee felt that this change was appropriate in the spirit of re-zoning side streets to the predominant residential use and to develop housing that might be more affordable because it would be on a small lot. The accomplishment of that end would require a difficult-to-obtain variance from the Zoning Board of Appeals. The petitioner and his attorney are prepared to proceed on that course. If they fail, the existing commercial use can continue as a newly non-conforming use. The Committee voted 6-0 with Alderman Sangiolo abstaining to approve the item.

#297-03 ALD. LIPSITT requesting the deletion of subsection 30-15(b)(4) which allows the Board of Aldermen to grant a special permit in the case of a rear lot not having the required frontage on a street by measuring along the rear line of the lot in front of it.

ACTION: APPROVED 3 (Johnson, Sangiolo, Mansfield) 2 (Baker, Lappin) 2
(Yates, Lennon)

NOTE: Alderman Lipsitt re-stated her concern that the Board has been forced by the current language to grant several rear lot subdivisions that offered little or no public benefit. Some members agreed but cited some subdivision like 959 Chestnut Street that had merit. Others said that there were some limited instances where public benefits in terms of better site designed, less disruption of a site (like the plan for Kessler Woods) or theoretically though never actually to date the provision of an affordable unit.

Ultimately the view prevailed in a plurality of the Committee that approval of the item would constitute a de facto moratorium and give incentive to develop a revised ordinance that required one of a limited series of benefits and significant mitigations before such a special permit could be issued. The four dissenters were not convinced that abolishing the use pending such an ordinance was the best way to proceed.

Attached is the supplemental memo dated November 7th from the Planning Department as well as a memo dated November 10th from Phil Herr. The actions taken by the Planning Board re petition nos. 331-03 and 297-03 are included under separate cover.

ITEM RECOMMITTED BY FULL BOARD ON 12/17/01:

#225-01 ALD. LIPSITT requesting that Sec. 30-15(b)(4) of the Zoning Ordinance be amended to require that all rear lot subdivisions have 20' of frontage upon a way.

ACTION: NO ACTION NECESSARY 7-0

NOTE: The substance of this item was subsumed in 297-93.

#225-01(2) ZONING & PLANNING COMMITTEE requesting discussion of further restrictions on rear lot subdivisions.

ACTION: NO ACTION NECESSARY 7-0

NOTE: The substance of this item was subsumed in the following item that the Committee voted to docket and refer to the 2004-05 Board.

#225-01(3) ZONING & PLANNING COMMITTEE proposing a new section of the Ordinance governing rear lot subdivisions that would require explicit findings of specific public benefits and standards for mitigation of impacts that must be met before a special permit for this purpose could be granted.

ACTION: REFER TO 2004-05 BOARD

NOTE: All members agreed that a section of the sort described would be preferable to the existing section and agreed docket the item and refer it to the next Board.

All other items were held without discussion. The meeting was adjourned at approximate 10:30 PM.

Respectfully submitted,

Brian Yates, Chairman