

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, APRIL 8, 2002

Members present: Ald. Yates (Chairman), Ald. Baker, Fischman, Johnson, Lennon, Sangiolo, and Gentile

Other Alderman: Merrill

Committee Staff: Lou Mercuri (Planning), Michael Baseman (Law), Linda Finucane (Clerk)

Also present: Licensing Commission Chair Martina Jackson, Former Alderman Tattenbaum, Newton Historic Commission Chair John Rodman

#111-02 ALD. BAKER & YATES proposing that the number of members of the Newton Historical Commission be expanded from five to seven, the maximum allowed by section 8D of MGL Chapter 40 and to add new sources for membership.

Committee Action: Approve 6-0 (Gentile not voting)

NOTE: Aldermen Baker and Yates explained that this item was based on the outside workload of the Historic Commission. Every Historic District Commission is supposed to have two members (and two alternates) from the Historic Commission. With two District Commissions, the workload is large. Some District Commission meetings start late because they fail to achieve a quorum and last late into the night because of a large number of items that need extensive discussion. If one or both of the two historic districts currently in the study stage become real, the workload for the five member Commission will become unbearable. In addition to the District Commissions, the Historic Commission is also represented on the Community Preservation Committee and the Historic Buildings Committee. One way to lessen the burden on individual members is to increase the number of members on the Commission from the current five to the maximum allowed by state law seven. There was some discussion as to how the additional members should be appointed. The current ordinance provides for one member nominated from the Newton Historical Society, an attorney, a realtor and two members at large. Alderman Yates had considered adding the National Trust for Historic Preservation and Historic Mass. Inc. as nominators for the two extra seats. NHC Chair John Rodman expressed strong support for the addition of the two members, but felt that the maximum flexibility should be maintained. He suggested that two more members at large be added, and no reference be made to possible sources in the Ordinance. He also

pointed a current problem in the membership and suggested a solution. Long-time, perhaps original NHC member architect Larry Bauer is unable to attend most meetings because of work and wants to resign. Mr. Rodman had convinced him to step down from full member to alternate so that he could still participate when available (Mr. Bauer wants to continue on the Historic Buildings Committee.) Long-time alternate member William Roesner who has had an excellent attendance record for a dozen years or more could be moved up to full member. The Committee agreed that this would be an excellent solution, but it raised the issue of NHC representation on the District Commissions. Currently the ordinances say that only full NHC members can serve as full District commission members and NHC alternates as DC alternates. It would allow greater degrees of flexibility and balancing of workloads to allow members of one Commission to take the role on the other Commission with a different workload. It was agreed that this might be desirable, but a different item would have to be filed to carry it out.

The Committee then voted 6-0 to approve the item. The number “five” would be replaced by “seven” and the number of members at large would change from “two” to four.”

#317-01 ALD. JOHNSON, O’HALLORAN, TATTENBAUM proposing that Sec 30-11(d)(9), requiring a special permit for “...businesses of whatever size which hold a Common victualler-All Alcoholic or Common Victualler-Wine/Malt Beverages license issued by the licensing authority of the city;” be amended by deleting such provision. **PUBLIC HEARING HELD 2/25/02.**

Committee Action: Approve as amended 4-1(Yates)-2(Sangiolo, Gentile)

NOTE: This item was heard in late February and can still be approved through May. It is based on a combination of factors. When Alderman Merrill was Licensing Director for approximately twenty years before 1987, he directed all applicants for Liquor Licenses to get zoning clearance from the Inspectional Services Department before going through the Licensing Process. As part of the Zoning Amendment process in 1987, the requirements were made stricter. All businesses with a liquor license were supposed to be subject for special permit. This change was apparently not communicated to the various approval officers, because it was not carried out until recently. Two new lawyers unfamiliar with past practices in the city took their clients through the special permit process as well as the licensing process. Many participants felt that this was onerous. It appeared to be based on a legal opinion of the Law Department. The way it has worked out recently has been that an applicant for a Common Victualler’s License with Alcohol allowed would go first to Licensing and only receive the CV, apparently based on this opinion. The applicant would then have to get a Special Permit and then return to the Licensing Board to get a Liquor License. Every one agrees that this three-step process is unfair. Some feel that the Board of Aldermen should get out of the process just as it has in practice if not in law for over a dozen years with no obvious detriment to the city. In response to an example by Alderman Yates of an out-of-control restaurant that it had taken the Licensing Board more than a decade to put out business, Ms. Jackson stated that

during her service on the Licensing Board, that institution had in fact been dealt with and using standards about the character and record of the owners that the Aldermen could not use through the Land Use Process. Alderman Yates pointed out that whatever the strength of the Licensing Authority currently, it had been ineffective previously and that the amount of parking could not be considered under Licensing but could by the Board of Aldermen. The most sensitive restaurant locations are those close to residences but without adequate parking. Such locations could not be addressed directly without special permit requirements because parking credits exempt them. The rest of the committee did not feel that further discussion of the relative merits of Licensing and Land Use controls was useful. Former Land Use Committee Vice-Chair Tattenbaum explained that the Committee had been frustrated by such items because there were no clear standards for considering them. Alderman Baker moved that the item be approved with the amendment that only businesses with more than 50 seats and a liquor license would need a special permit. The Committee voted 4-1-2 to approve the items as amended. Alderman Yates voted no because it left the larger restaurants still subject to a three step process. Aldermen Sangiolo and Gentile abstained.

UPDATE ON THE FOLLOWING ITEMS, REFERRED TO THE 30-15 TASK FORCE:

- #216-00 ALD. YATES requesting that Chapter 30 be amended to require a special permit to demolish an existing single-family dwelling on a pre-1953 lot that does not meet the current dimensional requirements for a lot in a Multi Residence District and replace it with a two-family dwelling.
- #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.

NOTE: Alderman Baker reported that the 30-15 Task Force was nearly ready to make some recommendations about older smaller lots that would focus on changing the zoning of some areas of the city to match the predominant land use. Since Alderman Mansfield was the Chair of the Task Force, the report needed to be schedule on night that he could attend. The first such night was April 29, the fifth Monday of this month. As the eve of the override vote and a night when members had made plans, this was rejected. The report will probably have to wait until after the budget is adopted. With that agreement this items were held.

Respectfully submitted

Brian Yates,
Chairman