

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 9, 2002

Present: Ald. Yates (Chair), Johnson, Sangiolo, Mansfield, Baker and Lappin

Absent: Ald. Lennon and Gentile

Also present: Ald. Lipsitt, Bryson, Merrill and Stewart

Other officials present: Attorney David Schwartz, Vice-chair, and Newton Upper Falls Historic District Commission

APPOINTMENT BY HIS HONOR THE MAYOR

#284-02 ROBERT AMATRUDA, 31 Lucille Place, Newton Highlands, appointed on August 1, 2002 as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term of office which will expire on July 31, 2005 (60-day Board action date 10/11/02).

ACTION: **HELD 6-0**

NOTE: Since Mr. Amatruda was not present, no resume had been provided by His Honor the Mayor, and no one on the Committee knew him, the Committee voted unanimously to hold the appointment.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#323-02 HIS HONOR THE MAYOR requesting authorization to create a part-time position of Community Preservation Planner within the Planning and Development Department. This new position will be funded from Community Preservation funds, as voted by the Community Preservation Committee on August 6, 2002.

ACTION: **APPROVED 6-0**

NOTE: Mr. Kruse explained that this position was necessary to implement the Community Preservation process, which will include a Request for Proposals process starting in November for the use of approximately \$3 million in state and local money. Of the \$50,000, \$35-\$40 thousand will be for salary with fringe and other necessary expenses using the rest. The position will be for three full days per week. Based on the application process for other positions, Mr. Kruse is confident that he can find candidates willing, if not eager, to work only three days per week. The Committee voted 6-0 to approve the expenditure of these funds to carry out the voters' mandate.

#196-02 NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION submitting pursuant to MGL Chapter 40C, Section 3, a recommendation that ARTICLE III. HISTORICAL COMMISSIONS AND DISTRICTS of the City of Newton Revised Ordinances, 2001, be amended by establishing a local historic district in Auburndale

The Committee began by discussing the issues that had been brought up at the Public Hearing and at the first working session on this matter as they were listed in the Committee reports.

1. Impact of Historic District on Property Values

Reports from the National Trust for Historic Preservation on Historic Districts in Washington, D.C. and Charleston, South Carolina found that contrary to the fears of opponents that their property values would decline, values changed very little and the only changes were positive ones. A letter from Newton Chief Assessor Elizabeth Dromey found that in Newton, there were no discernable effects on property values in the two existing Historic Districts.

2. Bad faith on the part of some Lasell Neighborhood Association Leaders

It was asserted at the public hearing and in various letters that three advocates for the historic district were selling their homes before the establishment of the district made them unsaleable. Two couples, the Rosenthals and the Denslers, submitted letters stating that they were in fact selling their large empty nest homes for personal reasons like moving closer to children and grandchildren and that both homes had easily been sold to new owners who valued the historic character of the area as much as they did and supported the district as solidly

3. How much of the proposed district would be exempted from commission regulations because of a location not visible from a public way? Short, straight private ways like Berkeley, Maple Terrace, Central Close etc. do not exempt most of their properties. Homes along the middle of Studio, Lake, and perhaps Myrtle Avenue would probably not be visible from public ways and thus be exempt from regulation.

4. Lack of Accountability of Commissioners and of easy appeal of their decisions.

Most of the petitions to both existing Commissions resulted in either a Certificate of Non-Applicability or a Certificate of Appropriateness. Decisions can be appealed to the Metropolitan Area Planning Council. The Council appoints a three-person panel of experts on historic preservation to hear the appeal. The appeal is at Newton City Hall to avoid imposing undue travel requirements on

participants. Of the twelve appeals of decisions of the Chestnut Hill Historic District Commission, only two appeals were approved and one of them only partly.

5. Rigor of Massachusetts Historic Commission Reviews

Alderman Lipsitt had wondered if MHC approval of Study Committee reports was not pro-forma and that if none were ever rejected, how could we be sure that the proposed district had historic merit. Christopher Skelly of the MHC responded that in this case as in most others, there was extensive interaction between the MHC staff and a Study Committee to correct any mistakes or omissions. The final document therefore had passed MHC staff review in essence and its approval by the Commission merely reflected the role of the staff. If a proposed report had serious flaws in the view of the Commission staff, it would never be submitted.

6. What weight should be given to the opinions of the conflicting experts of the two sides as to the historic merit of the proposed and as to whether the proper steps were followed? The resumes of Ms. Schuler and Mr. Delacy are attached. (Mr. Delacy's only became available after the last packet.) Mr. Delacy's comments on the alleged substantive and procedural defects of the proposed district were in his Comments included with the public hearing reports. Ms. Schuler's response is in the new materials from the LNA. The only obvious fact is that the Mass Historic Commission approved the submission thus implying their approval of the substance and process.

7. Are there other methods that are appropriate for dealing with Colleges in historic Districts? Harvard appears to have three separate relationships with the Cambridge Historic Commission. Some of its properties are in a 40C Historic District; others are in a massive (1000+ properties) Neighborhood Conservation District; and still others after a lengthy negotiation with the city have been placed on the National Register but are only regulated by a Memorandum of Agreement with Harvard using National Register standards. According to Ms. Schuler, Wheaton College owns 69% of the properties in the Norton Historic District and is treated the same as any other property owner.

8. Number and size of Districts. According to Ms. Schuler, there are 209 local historic districts in Massachusetts. 165 are 40C, and 45, mainly in Boston and other communities with older districts, were adopted by Special Acts. One district in Boston has over 2000 properties; another 1200 and a third 3300. Eleven local districts have 330+ properties, and eight have 250 to 330. Newton is one of fourteen cities with 40C districts. 100 of the 165 communities are small towns with all their resources around a town common.

The remainder of the discussion focused around the issues of number and types of property owners in support and opposed. Including the most recent letters both separate and in the LNA packet, both Alderman Lipsitt and Alderman Sangiolo agreed that 154 residents (virtually all homeowners) support the district and 71 residents (again virtually all homeowners) oppose it. In addition, Lasell College, owner of 30 parcels opposes it. One church that owns a property rented to a business supports it while the tenant had previously opposed it. The Walker Home supports it. Several Aldermen expressed concern that the two to one ratio of support among homeowners was not sufficient for a serious reduction in the dissenters' property rights. Others pointed out that the supporting property owners felt aggrieved and threatened by the existing conditions and the likelihood of further demolitions like those at the upper end of Central Street that more seriously impacted the quality of their lives than the loss of rights incurred in an historic district. (See letter from Emmanuel Howard.)

In order to spare the feelings of as many of her constituents as possible, Alderman Sangiolo offered three reductions in the size of the proposed district. (It had been determined by the Law Department and later confirmed by the Massachusetts Historic Commission that it was not legally necessary under Chapter 40C.) She would change the Southern boundary to reflect the southern boundary of the Lasell National Register Historic District, eliminating Aspen Ave. and the end of Hawthorne near the Golf Course. Her second change would carve out a section in the Central Street, Central Terrace, and Central Close area. Her third would eliminate some or all of the Central Street area. All three had pros and cons. Alderman Baker liked Aspen Avenue as a Gateway to the district. Alderman Yates liked the end of Hawthorne Avenue. There were National Register or otherwise valuable properties near the Central cut. The boundary would have to be cut very carefully. Central Street itself contains blocks of supporter facing blocks of opponents. How can you restrict the rights of the supporters while giving them no protection from the changes in properties across the street? At the dead-end of Central, an isolated National Register house faces the site where an historic was demolished and replaced with several modern houses.

The Committee attempted to find guidance in looking at the map of Historic Survey properties. It was uncertain if anything other than their age and gotten them surveyed. Were National Register properties of higher historic value? Alderman Bryson felt very strongly that it was very important to go back at least part way in the process and ask the Upper Falls Historic District Commission to review these possible reductions in the size of the district the Commission had recommended and have a similar process to that previously followed. Others felt that there was no need to go through even an abbreviated process again. The matter was before the Board. We had a legal right to reduce (but not increase) the size of the district. No resolution was obtained on the process, but at a minimum the Committee agreed to take another look at the district using a map showing only the National Register properties not the surveyed ones and with the proposed

changes clearly marked. Some wanted to have data on the opinion of the property owners. Others felt that it was irrelevant to the historic merit of the disputed sections. Alderman Sangiolo said that the first two sections would remove forty objectors and less than twenty supporters. The numbers on Central Street were more even, but shrinking the district, perhaps as far as the back of lots on Hancock Street would reduce the number of opponents in the district other than Lasell to a bare minimum.

The Committee adjourned after more than two hours of discussion with the expectation that the district would be discussed again in late October.

Respectfully submitted,

Brian Yates, Chair

Attachments:

Elizabeth Dromey letter on Property Values (out of state reports previously distributed)

Michael Delacy Resume
Gretchen Schuler Resume

LNA Package Dated September 9, 2002

Memo to Brian Yates from Gretchen Schuler, dated 9/9/02, Response to Requests
Letter to Brian Yates from Rob Kline, dated 9/9/02

Letter to Brian Yates from Ed Chang, dated 9/3/02

Draft Guidelines for proposed Auburndale Historic District

Letter to Larry Schwirian from Christopher Skelly, MHC, dated 7/29/02

Memo on Demolition Requests 9/9/02

Emmanuel Howard Letter, 9/04/02

Edmund Chang and Susan Sylligardos Letter, 9/1/02

Sally Walker Lynch Letter, 9/6/02

Sherwood Norton Letter, 9/0/02

Report of Work of Commissions

Rosenthal, Densler Letters

There is also a separate package of supporting letters submitted by the LNA.

Respectfully submitted,

Ald. Brian Yates, Chairman