

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, NOVEMBER 25, 2002

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

Absent: Ald. Mansfield

30-15 Task Force members: Mark Gilroy (Commissioner of Inspectional Services), Peter Bronson (Zoning Administrator), Ald. Amy Sangiolo, Attorney Jason Rosenberg, and Ald. Lisle Baker

Also present: David Banash and Ernest Siciliano of the Planning Board

City officials: Michael Basemen (Law), Juris Alksnitis (Planning), Linda Finucane (Clerk's)

#419-02      ALD. GENTILE requesting a discussion with the Commissioner of Inspectional Services on possible action by the Board of Aldermen that will help the department better enforce existing zoning regulations and bring violators into compliance, i.e., greater ticketing power, additional staffing, etc.

**ACTION:**      HELD 7-0 FOR 12/9 MEETING

**NOTE:** Ald. Gentile explained that this item was an attempt to respond to the problem in all wards, including his own, of lack of enforcement of violations of the zoning ordinance. Commissioner of Inspectional Services Mark Gilroy must operate on a complaint-driven system of enforcement because of lack of resources. Ald. Gentile said that he thought the matter should be discussed early in the budget process rather than later when the administration was locked in on specifics. Mr. Gilroy agreed to give the committee his thoughts on the matter at the December 9<sup>th</sup> meeting.

Re-appointment by His Honor the Mayor

#442-02      AUDREY COOPER, 114 Berkeley Street, West Newton, re-appointed on October 31, 2002 as member of the PLANNING AND DEVELOPMENT BOARD for a term of office to expire on February 1, 2007 (60-day Board action date 1/17/03).

**ACTION:**      APPROVED 7-0

**NOTE:** Ms. Cooper's active role on the Planning Board and in many other civic efforts was well known to committee members. Ald. Baker moved approval of her re-appointment, which passed unanimously.

Re-appointment by His Honor the Mayor

#443-02      JOYCE MOSS, 229 Franklin Street, Newton, re-appointed on October 31, 2002 as a member of the PLANNING AND DEVELOPMENT BOARD for a term of office to expire on February 1, 2006 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Ms. Moss' active participation in the work of the Planning Board was also well known to committee members. Ald. Gentile moved approval of re-appointment, which passed unanimously.

Re-appointment by His Honor the Mayor

#444-02      ROGER WYNER, 24 Pudding Stone Land, Newton Centre, re-appointed on October 31, 2002 as member of the PLANNING AND DEVELOPMENT BOARD for a term of office to expire on February 1, 2007 (60-day Board action date 1/17/03).

ACTION:      APPROVED 6-0-1 (SANGIOLO)

NOTE: Mr. Wyner's role as former and current Chairman of the Planning Board was well known to committee members. Upon a motion by Ald. Gentile his re-appointment was approved 6-0-1, with Ald. Sangiolo abstaining because she wished to ask him about a letter.

Re-appointment by His Honor the Mayor

#445-02      GLENN VANAMAN, 22 Columbia Avenue, Newton Upper Falls. re-appointed on October 31, 2002 as an ALTERNATE member of the PLANNING AND DEVELOPMENT BOARD for a term of office to expire on February 1, 2006 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Mr. Vanaman is an architect who represents the Planning Board on the Community Preservation Commission and has served on the Inclusionary Zoning Task Force. Upon a motion by Ald. Sangiolo, his re-appointment was approved unanimously.

Re-appointment by His Honor the Mayor

#446-02      CAROL BEARD, 250 Hammond Pond Parkway, Chestnut Hill, re-appointed on October 31, 2002 as an ALTERNATE member of the PLANNING AND DEVELOPMENT BOARD for a term to expire on February 1, 2006 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Ald. Gentile knew of Ms. Beard's community activism on behalf of special education dating back to his service on the School Committee. He moved her re-appointment, which passed unanimously.

Appointment by His Honor the Mayor

#447-02      DAVID GALLER, 52 Page Road, Newtonville, appointed on November 4, 2002 as a regular member of the HISTORICAL COMMISSION and as a regular member of the UPPER FALLS HISTORIC DISTRICT COMMISSION for concurrent terms to expire on January 1, 2005 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Mr. Galler is an architect who is moving up from alternate to full member of the Historical Commission and the Upper Falls District Commission. Ald. Yates has found him helpful to petitioners before the Upper Falls District Commission and Ald. Sangiolo found him very helpful in his work on the study commission for Auburndale. It was noted that as a resident of Newtonville he would be ideal to serve on that newly formed commission. Ald. Sangiolo moved approval, which passed unanimously.

Re-appointment by His Honor the Mayor

#448-02      WILLIAM ROESNER, 34 Hancock Avenue, Newton Centre, re-appointed on November 4, 2002 as a regular member of the HISTORICAL COMMISSION and as a regular member of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION for concurrent terms to expire on January 1, 2005 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Mr. Roesner is an architect and well known to Ald. Baker who confirmed Mr. Roesner's commitment to the Commissions. Ald. Baker moved approval, which passed unanimously.

Re-appointment by His Honor the Mayor

#449-02      ROBERT SILVER, 23 Woodhaven Road, Waban, re-appointed as a member of UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire on July 31, 2005 (60-day Board action date 1/17/03).

ACTION:      APPROVED 7-0

NOTE: Mr. Silver holds the architect's seat on the Upper Falls District Commission. Ald. Sangiolo and Yates both reported that, like Mr. Galler, Mr. Silver is very helpful to petitioners with architectural advice, often saving them undue expense. Ald. Sangiolo moved approval, which passed unanimously.

RE-APPOINTMENT BY HIS HONOR THE MAYOR

#368-02      CATHERINE CLEMENTS, ESQ., 25 Hunter Street, West Newton, re-appointed on October 10, 2002 as a member of the ZONING BOARD OF APPEALS for a term expiring September, 2005 (60-day Board action date 12/20/02).

ACTION:      APPROVED 7-0

NOTE: Ald. Gentile knows Ms. Clements to be a fair and reasonable member of the ZBA and moved approve of her re-appointment, which passed unanimously.

RE-APPOINTMENT BY HIS HONOR THE MAYOR

#370-02      JOSEPH G. COSGROVE, ESQ., 125 Shornecliffe Road, Newton, re-appointed on October 10, 2002 as an ASSOCIATE member of the ZONING BOARD OF APPEALS for a term expiring September, 2003 (60-day Board action date 12/20/02).

ACTION:      APPROVED 7-0

NOTE: Ms. Cosgrove is a well-known real estate attorney and former city assessor. Ald. Gentile moved approval, which passed unanimously.

RE-APPOINTMENT BY HIS HONOR THE MAYOR

#372-02      ANTHONY SUMMERS, ESQ., 11 Marshall Street, Newton Centre, re-appointed on October 10, 2002 as a member of the ZONING BOARD OF APPEALS for a term expiring September, 2005 (60-day Board action date 12/20/02).

ACTION:      APPROVED 7-0

NOTE: Again, Mr. Summers service on the ZBA is well known. He has also served as Vice Chairman. Ald. Baker moved approval, which passed unanimously.

#450-02      ANTOL ZUKERMAN et al. petitioning for change of zone on NOBLE STREET, WEST NEWTON, from SINGLE RESIDENCE 3 to MULTI RESIDENCE 1.

ACTION:      HELD 7-0

NOTE: This item was held until the previously heard similar item for other streets in West Newton is taken up.

#216-00(2)    ZONING & PLANNING COMMITTEE transmitting the recommendation of the Section 30-15 Task Force proposing to amend Chapter 30 of the City of Newton Ordinances, as follows:

Delete the present text of §30-15(1) which permits a 2-family dwelling to be constructed or an existing 1 family dwelling to be altered, extended or reconstructed to a 2 family dwelling with a minimum lot area per dwelling of 3,000 sq. feet in the Multi-Residence 1 and 2 Districts even though the minimum lot area in those districts is 7,000 sq. feet. All references to this provision which appear in Table 1 would be deleted. Table 1 would be further amended so that the minimum lot area per dwelling unit in both Multi Residence 1 and 2 would be 3,500 sq. feet.

Amend the provisions of §30-21(a)(1)(a) to state that alteration, reconstruction, extension or structural change to an existing 2 family structure which currently has a lot area per dwelling of 3,000 sq. feet will not be considered to increase the non-conforming nature of such structure.

ACTION: APPROVED 6-0-1 (JOHNSON ABSTAINING) DRAFT ORDINANCE ATTACHED.

NOTE: This item is an item by the 30-15 Task Force to clear up contradictions between differences of this confusing section of the ordinance. One section allows two family homes on old lots on no less than 7,000 square feet; another allows two units on such lots with 3,000 square feet per unit. The result of such language is that owners who wish to build on such small lots must seek variances. Removing the contradiction would enable property owners with old lots of 7,000 square feet or 3,500 square feet per unit to build a two-family house.

The second paragraph concerning the non-conforming status of existing two-family homes with 3,000 square feet per unit was problematic to Ald. Gentile, who wondered if we would be giving additional conformity problems to such owners. After extensive assurances from Messrs. Gilroy, Bronson, Baseman, and Rosenberg that this change would merely regularize existing conditions, he reluctantly agreed to support his provision but reserved his right to object on the floor of the Board if his belief changed.

Ald. Lappin moved approval of the item and the committee agreed 6-0-1, with Ald. Johnson abstaining.

#145-02 ALD. LIPSITT & JOHNSON requesting that the "sunset" provision in Sec. 30-8(d)(4) and Sec. 30-9(h)(2), relating to the lawful use of pre-existing accessory apartment units, be eliminated or extended.

ACTION: APPROVED 7-0 (EXTEND TO JUNE 30, 2007) DRAFT ORDINANCE ATTACHED.

NOTE: The large numbers of apartments seeking relief under this item in recent years has slowed to a trickle. It was unclear if this was due to a lack of enforcement or a lack of units. Attorney Jason Rosenberg said that most of his clients who had utilized this provision had not known of the illegality of the units and had only learned of it when they tried to sell their property. Ald. Baker was open to an extension of the ten years of amnesty for another five years but did not want an open-ended extension with no implicit pressure to legalize units. Upon a motion by Ald. Baker, the committee agreed 7-0 to a five-year extension to June 30, 2007.

#185-01 PLANNING & DEVELOPMENT BOARD proposing that Sec. 30-1, Definitions, be amended by amending the definitions of "*Dwelling, attached*" and "*Dwelling, two-family*" and by adding definitions for "*Common roof connector*" and "*Common wall connector.*"

ACTION: APPROVED 4-0-3 (YATES, LAPPIN, SANGIOLO ABSTAINING) DRAFT ORDINANCE ATTACHED.

NOTE: David Banash of the Planning Board described the rationale for this item while Mr. Alksnitis presented the power point presentation that illustrated the various examples of so-called two-family houses that were allowed to built by right under the current definitions of two-family homes. It was not clear to the Committee that the objectionable homes would be brought under control by the amendment. It appears that prior to the 1987 zoning amendments attached

dwellingings were merely the townhouses approved by the Board under special permits in Multi-Residence 1 and 2 districts; single-family and two-family dwellingings were the customary structures that had been built in Newton well before zoning. Somehow, interpretations of various Inspectional Services Commissioners had opened the door to two separate buildings connected by a breeze-way, garage, or even a single beam being approved as a two-family house. The new definitions of "Common roof connector" and "Common wall connector" and the re-revised dwelling definitions are intended to clarify the matter so that uses of right and special permit uses are differentiated in a way clear to all. Some members of the committee were not convinced that these elaborate new definitions and revised definitions were the best way to achieve this aim and abstained on the vote to report the definitions section of the item as amended so it passed 4 (Baker, Gentile, Lennon, Johnson) to 0 with 3 abstentions (Yates, Lappin, Sangiolo).

The garage sections of the revised amendment could not be passed because after the original item had been amended to more clearly put houses with large garages into the special permit sections, the item itself had not been revised and it had been advertised without those sections reference. Most Committee members agreed with the intent of the item that large garages needed to be regulated but were unconvinced that this was the best day to control them. Since the basic item had passed as amended, a new item on this topic would need to be submitted. Alderman Yates stated his preference for the approach taken by Fort Collins Colorado.

All other items were held without discussion. The meeting was adjourned at approximately 11:25 PM.

Respectfully submitted,

Ald. Brian Yates, Chairman