

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, DECEMBER 9, 2002

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

Absent: Ald. Mansfield

Also present: Ald. Stewart, Bryson, and Lipsitt

City staff: Juris Alksnitis (Planning), Michael Baseman (Law), Mark Gilroy (Inspectional Services), Linda Finucane (Clerk's)

Non-Alderman members of the 30-15 Task Force: Attorneys Alan Schlesinger, Jason Rosenberg and Mark White, and Commissioner of Inspectional Services Mark Gilroy

**APPOINTMENT BY HIS HONOR THE MAYOR**

#284-02(2) ROBERT AMATRUDA, 31 Lucille Place, Newton Highlands, appointed on October 4, 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 1/5/03).

**ACTION:** HELD 5-0 (BAKER, GENTILE NOT VOTING)

**NOTE:** Alderman Lennon raised the question of Mr. Amatruda's ability to participate in the work of the EDC since he has twice been unable to attend ZAP meetings. The Chairman will raise this topic with the Mayor's office and request that his appointment be withdrawn and resubmitted in January. The Committee voted unanimously to hold.

#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

**NOTE:** Alderman Gentile asked Mr. Gilroy to explain the current situation in the Department. Mr. Gilroy said that for the first time in years he has four fully trained Building Inspectors ready to enforce the Zoning Code and Building Code in the four Districts into which the city is divided. Last year the Department received approximately 100 zoning complaints. Because of lack of staffing, only 50 of these were even assigned to an Inspector. Twelve of these were resolved. With the full staffing, he will start assigning complaints to the appropriate Inspectors as they come in. He assumes that the unassigned complaints are no longer valid if no further complaints

on the topic are received. The ticketing power was of great value in cracking down on moveable signs, but is of less value on zoning violations that are not as easy to document or correct. The most senior Building Inspector prefers not to ticket because he feels that he can resolve complaints effectively without doing so. The other three Inspectors are willing to ticket. When ticketing and other techniques have failed to resolve Zoning Complaints, a Cease and Desist Order is issued with a 30-day deadline for compliance. After that the Law Department brings the matter to court. On issues involving noise ordinance violations, the Police Department has been willing to help, but few officers seem interested in going further than that. The issue of violations that can only be documented at night seems logically to fall in the Police purview, but most seem to feel paying attention to such matters is not part of their jobs. If necessary, the Chief can be brought before the Committee to discuss a general policy in this area, which seems to fall within the "Broken Window" policy that the Chief was familiar with in New York.

In response to questions, Mr. Gilroy said that all of his staff will have full computer access at their office work stations for the first time and that he is aware of a software package from a New Jersey company that would assist them in record keeping. He said that the building boom in Newton continues and that much of his Inspectors' time is spent overseeing construction. Committee members asked if it might be better to have a division between the Inspectors overseeing construction and those enforcing the Zoning Ordinance. He said that in an ideal world, he would like to have two Zoning Enforcement Inspectors in addition to the Four Building Inspectors.

Alderman Gentile offered to sit down with Mr. Gilroy and Mr. Baseman to develop a specific proposal for improved enforcement to be presented to the administration in January. With a report on the matter scheduled for January 13, the Committee voted unanimously to hold the item.

#231-02(2) ZONING & PLANNING COMMITTEE transmitting the recommendation of the Section 30-15 Task Force to re-zone from MULTI RESIDENCE 1 to SINGLE RESIDENCE 3 the following properties identified by address in Ward 6 in order to have the zoning for these properties reflect the predominate actual single-family use:

Oakmont Avenue: 5, 10, 14, 15, 20, 24, 25, 30, 31, 34, 40, 41, 44,  
50, 54, 55, 60, 61, 65 & 66  
Jackson Street: 65, 84, 89, 90, 95, 101, 125 & 131  
Cypress Street: 290, 298, 302 & 308  
Dudley Road: 6 & 16  
Boylston Street: 435 (parcel on corner of Dudley Road)

**ACTION:** APPROVED 6-0 (LENNON NOT VOTING) DRAFT ORDINANCE  
ATTACHED

**NOTE:** This item is in essence a follow-up to the Bowen-Thompsonville Neighborhood Association request for a study of the development potential of their area and ways to prevent over development. All speakers and writers were in favor of the item. It passed unanimously.

#285-02 ZONING & PLANNING COMMITTEE transmitting the recommendation of the Section 30-15 Task Force to re-zone from MULTI RESIDENCE 1 to SINGLE RESIDENCE 3 the following properties identified by address in Ward 4 in order to have the zoning for these properties reflect the predominate actual single-family use:

Woodbine Street: 12, 18, 26, 30, 38, 39, 44, 45, 48, 49, 54, 55, 60 & 65  
2240 Commonwealth Avenue (parcel also fronts on Woodbine Street  
Vacant lot immediately to the north and west of 65 Woodbine Street, located at  
the southeast corner of Woodbine Street and Commonwealth Avenue  
Auburn Street: 459, 465, 473, 483 & 493  
Woodbine Terrace: 24, 28, 32, 36 & 40, including the unnumbered lot between  
24 Woodbine Terrace and 60 Woodbine Street  
Rockwood Terrace: 12, 16, 19, 21 & 22

ACTION: APPROVED AS AMENDED 3-0-3 (YATES, BAKER, LAPPIN IN THE AFFIRMATIVE; GENTILE, JOHNSON, SANGIOLO ABSTAINING; LENNON NOT VOTING) DRAFT ORDINANCE ATTACHED

NOTE: The neighborhood reaction was much more mixed to this proposal. Several residents of Woodbine Terrace had spoken against it and a new petition (attached) signed by several of them was submitted. A petition from several residents of Woodbine Street and Rockwood Terrace in favor of the district had previously been submitted. The owner of the two-family house at 55 Woodbine Street had expressed a wish to be excluded as had the owner of 60 Woodbine Street. Several properties facing Auburn Street were two-family or more in use. Ultimately Alderman Baker moved a straw vote to amend the item to include only 16 single-family properties on Woodbine Street and Rockwood Terrace (Nos. 54 through 12 and 39, 45, 49 Woodbine and 12, 16, 19, 21, & 22 Rockwood Terrace).

No properties would be made nonconforming and only one property owner opposed the change while several of his neighbors supported it. The straw vote passed. Approval of the item as amended was then voted 3 (Yates, Baker, Lappin) 0- 3 (Gentile, Johnson, Sangiolo).

#286-02 ZONING & PLANNING COMMITTEE transmitting the recommendation of the Section 30-15 Task Force to re-zone from SINGLE RESIDENCE 3 to MULTI RESIDENCE 1 the following properties identified by address in Ward 3 in order to have the zoning for these properties reflect the predominate actual two-family use:

Northgate Park: 2-14, 28-30, 31-33, 32-34, 36-38, 37-39, 42-44, 46-48, 47-49, 50-52, 53-55, 56, 59-61 & 62  
Southgate Park: 15, 18-20, 24-26, 28-30, 29-31, 32-34, 33-35, 36-38, 37-39, 42-44, 43-45, 46-48, 47-49, 50-52, 53-55, 56-58, 57-59, 60-62, 63, 66 & 69  
Waltham Street: 350-352, 354-356, 358-360, 362-364 & 359

Adena Road: 105-107, 109-111, 115-117 & 121-123  
Colman Street 12-14  
Derby Street: 24-26  
Rangeley Road: 48-50, 51-53, 52-54, 55-57, 56-58, 59-61, 62-64 & 63-65,  
including the vacant lot immediately to the north of 51-53 Rangeley Road, located  
at the southwest corner of Rangeley Road and Derby Street  
Kilburn Road: 3, 7-9, 10, 11-13, 17, 21-23, 27-29, 30 & 34  
Talbot Street: 32

**ACTION:** NO ACTION NECESSARY 4-0-2 (BAKER, LENNON ABSTAINING;  
SANGIOLO NOT VOTING)

NOTE: Alderman Yates proposed a similar reduction in the scope of this item to only the current two-family houses, but Alderman Gentile preferred to discuss the item as a whole. The rationale for the item was to make all the current non-conforming houses conforming and spare the owners the necessity of obtaining an extension of non-conforming use. Alderman Gentile pointed out that he had never received any complaints of this nature. No other Aldermen present had either. Mr. Gilroy had explained that his interpretation of non-conforming uses was fairly open so that minor repairs or replacement would not trigger the process. In short, the item appeared to be solving a non-existent problem. Task Force members acknowledged a lack of complaints though they were unsure if that was due to lack of changes, lack of applications, or easy interpretations. The principal reason for filing this item was the obvious difference between the use and the zoning and an attempt to be even-handed in filing down-zonings as well as up-zonings. The Committee agreed with Alderman Gentile that the outcry from the citizens was for prevention of over development and voted 4-0-2 to report No Action Necessary on the item. Alderman Baker abstained out of deference to the Task Force. Alderman Lennon abstained because he had been at the CPC Hearing during the discussion of the item.

All other items were held without discussion and the Committee then adjourned until January 13.

Respectfully submitted,

Ald. Brian Yates, Chairman