

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, DECEMBER 10, 2001

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

Absent: Ald. Mansfield; 1 vacancy

Also present: Ald. Salvucci

Planning Board members: Roger Wyner (Chairman), David Banash, Ernest Siciliano, Joseph Proman, and Glen Vanaman

City officials: Michael Baseman (Law), Mark Gilroy and Peter Bronson (Inspectional Services), Lou Mercuri (Planning), Linda Finucane (Clerk's)

PUBLIC HEARINGS WERE HELD ON THE FOLLOWING 2 ITEMS:

#398-01 ALD. SALVUCCI, BULLWINKLE, GENTILE requesting that **Sec. 30-19. Parking and loading facility requirements**, paragraph **(d), Number of Parking Stalls.**, be amended by adding a new subsection (21) as follows: "One stall for each 100 square feet or fraction thereof of gross floor area for use in any health and/or fitness club. In addition, one stall shall be provided for each employee on the largest shift."

ACTION: REFERRED 6-0 TO 2002-03 BOARD

#399-01 ALD. SALVUCCI, BULLWINKLE, GENTILE requesting that **Sec. 30-19. Parking and loading facility requirements**, paragraph **(d), Number of Parking Stalls.**, be amended by adding a new subsection (21) as follows: "One stall for each three persons allowed within the maximum occupancy load, as prescribed by the State Building Code, of the gross floor area for use in any health and/or fitness club. In addition, one stall shall be provided for each employee on the largest shift."

ACTION: REFERRED 6-0 TO 2002-03 BOARD

NOTE: A public hearing was held on these two items followed by a working session. Alderman Gentile presented the items with some clarifying comments from Alderman Salvucci. They essentially were responding to the opening of a new health club in the site of the former European Health Spa on Washington Street in West Newton. The new club utilizes more space than the previous club did (including some of the former club's

office space and other space in the building). It has a total of 18,000 square feet. The Aldermen from Ward Three were puzzled as to how such a major commercial addition could be made without a special permit. The Inspectional Services Department explained to them that the use is a use of right in a commercial district and that the existing commercial space had a number of so-called phantom parking spaces based on the use of the site in the past. The intention of these spaces is to encourage the preservation of existing commercial spaces. Without them, any change in the use of older business buildings in village centers built before the provision of parking spaces would cause the demolition of the buildings. The Aldermen from Ward Three felt that this valid principle for small uses was not appropriate for larger ones like this. Because of the number of phantom spaces, the club is legal as built and would continue to be so even if the ordinance passes. However, the change would require any use of additional space in the building by the health club to provide on-site parking. Since none is available, no expansion would be possible. The sponsors explained that these ordinances were only one way of dealing with the issue. Some change in the phantom parking spaces or in the threshold for special permits would also serve their purposes and they felt strongly that a definition for health club should be included in the ordinance.

Attorney Alan Scheslinger spoke on behalf of the health club. The club is in favor of a definition and clear standard for parking. The review process by ISD had been arduous. However, he feels the proposed standards are punitive. He asserted that most of the customers of health clubs come from the immediate neighborhood and promised to provide figures to back up that claim.

After discussion in Committee and the realization that zoning amendments unlike Special Permits can carry over from one Board to the next, the Committee voted 6-0 to refer both items to the next Board and to docket and refer the following items

398-01(2) The Zoning and Planning Committee proposing to add a definition for health club to Sec. 30-1.

Zoning and Planning Committee proposing discussion of the “phantom parking credit”, Sec. 30-19 (c)(2)a).

Zoning and Planning Committee proposing discussion of reducing the threshold for special permits in a commercial district from 20, 000 square feet to 10,000 square feet, Sec. 3-12(f).

Alderman Sangiolo said that she would docket separately an item to define recreation facilities.

#185-01 PLANNING & DEVELOPMENT BOARD proposing that the definitions for “*Dwelling, attached*”, “*Dwelling, two-family*”, “*Common roof connector*” and “*Common wall connector*” in Sec.30-1 **Definitions.** be amended. (Public Hearing 9/24/01)

ACTION: REFERRED 6-0 TO 2002-03 BOARD

NOTE: After lengthy discussion with the Planning Board and ISD, the Committee took two straw votes that concluded that the Committee agreed that two-family houses in the traditional style should be uses of right but that two-family attached dwellings in the multi-residence districts should require special permits and that the issue of large garages should be discussed separately from this issue. The Committee then voted 6-0 to refer this item to the next Board where it will need to be reheard.

#518-99 ALD. BAKER & YATES requesting presentation and discussion of planning and zoning ideas regarding the Route 9/Hammond Street corridor prepared for the joint Newton/Brookline Chestnut Hill Village Alliance by three teams of MIT students as part of their fall semester coursework.
Committee Action: No Action Necessary 6-0

ACTION: NO ACTION NECESSARY 6-0

26-00 ALD. SANGIOLO requesting discussion with Planning, Law, and Inspectional Services Departments regarding amending certain sections of Chapter 30 to be consistent with Chapter 40A of the Massachusetts General Laws.

ACTION: NO ACTION NECESSARY 6-0

NOTE: Alderman Sangiolo moved No Action Necessary with the understanding that the substance of the item would be taken up by the 30-15 Task Force.

THE FOLLOWING ITEMS WERE REFERRED 6-0 TO THE 2002-03 BOARD:

#409-01 ELIZABETH SALVUCCI et al submitting on 11/8/01 a petition pursuant to Article 10, Section 10-2 of the City Charter requesting a temporary halt on the issuing of new building permits in Newton (Board Action Date 2/8/02).

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

#128-00 ALD. YATES proposing an amendment to the ordinance governing the Upper Falls Historic District to make failure to complete a project approved by the Commission within one year of the issuance of the permit a violation of the ordinance.

#128-00(2) ZONING & PLANNING COMMITTEE requesting the Law Department and the Inspectional Services Department develop an ordinance based on the City's Home Rule powers requiring property owners to complete reconstruction once begun in a reasonable time and

- #128-00(3) ZONING & PLANNING COMMITTEE requesting that the Planning, Law and Inspectional Services Departments develop an effective way to prevent in the historic districts the construction of structures that do not require building permits but nonetheless have impact on the historic character of the districts.
- #287-01 ALD. SANGIOLO proposing an ordinance to require a permitting process for the construction of parking lots.
- #304-01 ALD. SANGIOLO proposing an ordinance that would detail what percentage of new building or additions would trigger a special permit in residential districts.
- #333-97 ALD. YATES proposing to amend the zoning ordinance to require a special permit for the subdivision of property where such subdivision would reduce the level of service for traffic at the intersection of the subdivision with a public way by one level of service or more.
- #366-98 ZONING & PLANNING COMMITTEE requesting discussion and possible recommendation of further ordinance or statutory amendments to enhance the enforcement of Newton Zoning and other Land Use Ordinances.
- # 7-99 ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- # 20-99 ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.
- #82-99(3) ZONING & PLANNING COMMITTEE requesting provision of Ordinance V-111 clarifying definition of height for residential districts be extended to clarify its application to other zoning districts.
- #106-00 ALD. MANSFIELD & PARKER on behalf of a petition signed by 70 residents, requesting that the Planning and Development Department undertake a study of the impacts of the potential build-out of the Bowen-Thompsonville area as it is currently zoned, including effects upon traffic, utilities, schools, and other infrastructure. **HELD PENDING RECEIPT OF STUDY FROM PLANNING DEPARTMENT**
- #127-00 ALD. YATES proposing an amendment to the ordinance governing the Upper Falls Historic District to prohibit the construction of attached garages facing public ways or facing private ways but visible from a public way.

#422-00 ALD. SANGIOLO requesting adoption of an ordinance that would require filings every two years by non-profit and educational institutions of a growth management or master development plan.

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.

#297-00 ALD. YATES & SAMUELSON proposing that Chapter 30 be amended to require a minimum lot area of 5,000 square feet for a single-family dwelling and 7,500 square feet for a two-family dwelling in Multi Residence Districts.

Respectfully submitted,

Ald. Brian Yates, Chairman