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Barney S. Heath
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MEMORANDUM

DATE: October 30, 2020

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Nevena Pilipović-Wengler, Community Engagement Manager
Zachery LeMel, Chief of Long Range Planning
Cat Kemmett, Planning Associate

RE: **#88-20 Discussion and review relative to the draft Zoning Ordinance**
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.
Other docket items to be taken up within the context of Zoning Redesign include #30-20, #38-20, and #148-20

MEETING: November 5, 2020

CC: City Council
Planning Board
John Lojek, Commissioner of Inspectional Services
Neill Cronin, Chief of Current Planning
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Recap

At the last ZAP meeting on October 26th, two groups of building professionals presented their recommendations for the Garage Ordinance. Staff greatly appreciates the immense amount of time and effort these building professionals continue to provide. Previously, staff recommended moving the amendment to the Garage Ordinance forward without the sections addressing Driveway Access or paving regulations. The building professional groups expressed support for this during their presentations at ZAP, and this decision has been reaffirmed by Current Planning and ISD.

The upcoming ZAP meeting on November 5th will include a presentation by staff on updated recommendations since hearing from the building professionals. In addition, members of the Zoning Redesign team have been meeting regularly with the Commissioner of ISD and Current Planning to better understand which components of the Garage Ordinance draft can best be incorporated into

current zoning, and how this can be accomplished. This memo provides more detailed information about how staff propose to prioritize content in the revision process for the Garage Ordinance, pose some key decision points for the Committee to guide staff, and provide a response to points brought up by the building professionals.

Garage Width

Total Width

Limiting the total garage width is the most impactful way the Garage Ordinance can ensure that garages do not dominate the streetscape. However, a common criticism of the deferred 2016 ordinance was that it restricted attached garages to a width of up to 40 percent of the total length of the building, which many found to be too restrictive. The top priority of the proposed Garage Ordinance is to set a maximum width for front facing garages, based on the total width of the house, that provides a reasonable allowance for a garage while not allowing the garage to dominate the front façade of the house.

The question of how best to regulate garage width has not yet been clearly resolved. ZAP has discussed loosening the restriction in the deferred ordinance and increasing the allowed garage width to go up to 50 percent of the total length of the building. One challenge of regulating garage width is defining the garage wall for purposes of this measurement. Many garages are attached to homes with a small entryway, mud room, etc. The building professionals proposed simplifying this measurement by focusing on just the width of the garage doors. According to this recommendation, the total width of Front Facing Garages would be measured by the doors, jamb to jamb, and may be no greater than 50% of the total width of the Front Elevation, inclusive of the garage doors.

Staff agree that measuring garage width based on the doors has a number of merits, particularly since the doors are the main area of concern for garages facing the street. If the Committee agrees to pursue this alternative method of measurement, this will require a careful analysis of whether 50% of the total width of the Front Elevation is still the right percentage, since the area being measured as garage width would be reduced as compared to the current draft.

Decisions

- Do you agree that measuring from the doors is a simpler way to regulate overall garage width?
- Should we consider creating additional guidelines for attached garages for two-unit structures in order to prevent multiple two-car Front Facing Garages?

Door width

Garage doors serve as the defining element in the scale and feel of garages that face the street. Overly large doors draw attention away from the living space of a house to the garage. Requiring individually articulated doors, as well as setting maximum garage door widths, can help break up the facade and provide more visual interest to garages that provide space for multiple motor vehicles. The current proposal restricts individual garages doors to no more than 9 feet in width.

The building professionals recommended setting a maximum width of 9 feet for single bay garage doors to ensure a reasonable but capped width. They also suggested that rather than requiring individual doors for any garage housing multiple vehicles, there should also be an option to provide a double-wide garage door for a two-car garage. If providing a single door, the building professionals recommended a maximum width of 16 feet.

Overall, staff agrees with these recommendations and looks forward to working with the building professionals and the Committee to refine these standards further. Allowing for alternatives provide homeowners who need extra space for getting in and out of a vehicle greater flexibility in design and will actually result in less overall garage door width in some instances than two individual doors. Setting a maximum width for these double-wide doors at 16 feet will help ensure that they will not overwhelm the streetscape. Finally, the building professionals also pointed out that a single garage door is a more economical option.

Decisions

- Should we allow double-wide doors for Front Facing Garages if the width is capped at 16 feet?

Front Elevation

The draft ordinance does not yet specify the details of how the Front Elevation should be measured in order to best account for jogs and articulation in facades. The width of the front elevation is used to determine the maximum garage width. Some options that are currently under consideration include:

- Measure the widest point of the building, including everything facing forward on the front façade, regardless of how far back a portion of the building may be
- Measure the widest point of the building within a certain range. For example, any portion of the building set back more than six feet from the frontmost portion of the living space would not be included in the overall width.

In order to facilitate a clear framework for ISD to follow in evaluating Front Elevations, this method of measurement should be kept fairly simple. Staff look forward to hearing the Committee's and building professionals' thoughts on this topic to better understand which avenue of measuring should be pursued further in the draft.

Decisions

- Should the front elevation measurement be limited to those building elements closest to the front of the house?

Placement

Front Facing Garages

Controlling for the placement of garages is another critical element of the Garage Ordinance. Front Facing Garages in particular have a strong impact on pedestrians and the public realm. When they are prominent and pronounced, they can become the defining architectural feature of the home as viewed from the street.

The building professional groups seemed to be in general agreement that the garage plane should typically be set back from the Front Elevation of the main building unless specific mitigating elements are provided or the garage is limited to no more than 1.5 stories. But, there is no clear agreement on what that setback for Front Facing garages should be. Similarly, there has not been a clear sense of agreement among members of the Committee about whether, or how much, to require a Front Facing Garage to be set back from the main building Front Elevation. Some members have raised concerns that the 8-foot minimum requirement put forward in the proposed draft would be too restrictive. Staff agrees that 8 feet is likely not necessary to reduce the impact of a front facing garage, given the restrictions on the overall width. Staff also agrees that limiting the stories of an attached garage, and/or requiring architectural features to offset the visual impact, reduces the concerns around garages that align with or project forward of the house. However, as discussed further below, these create difficulties in implementing the ordinance. Even the previous proposal to allow the garage to align with the front of the house when there is a front porch has raised concerns upon further analysis and attempts to define a porch. The zoning ordinance must be clear and require little discretion, which is why staff recommend keeping the placement of the garage as simple as possible.

Because Front Facing Garages are so visible and connected to the street, staff recommend some amount of differentiation in the facade or setback requirement to reduce their visual impact. Some options to consider include:

- Reducing required setback from 8 feet to 2 feet to be less restrictive. The 8-foot setback was originally recommended to align with the standard requirements for the Side Wing Building Component, which is not a feature in our current zoning.
- Requiring Front-Facing garages to be pushed back if the garage has room for two or more cars but allowing single car garages to be flush with the main building façade.

Just as jogs or articulation in the facade of a house presents a challenge for calculating the width of the front elevation, it also needs to be accounted for when determining from which point to measure the garage setback. If the garage is to be set back 2 feet from the front of the house, for example, how much of the front facade needs to be at least 2 feet forward of the garage facade? One option is to require at least 50% of the portion of the front facade that is defined as the front elevation to be set forward of the garage.

Decisions

- Should we require Front-Facing garages to be set back from the main building facade? If so, what should that minimum setback be?
- Should we differentiate between a single car garage and two or more car garages?
- When determining garage placement, how should we account for articulation and jogs in the front facade of the house?

Side Facing Garages

The building professionals recommended that Side-Facing Garages may be located in front of the main house, but not within the front setback, which is consistent with the latest proposal. However, in their opinion no fenestration or roof design requirements should be included for the front facade or the roof of the garage. In their opinion, requiring fenestrations is overly restrictive and builders already provide windows and other architectural elements when designing Side Facing Garages.

Staff recommends allowing Side Facing Garages in front of the building Front Elevation so long as there is a minimum of 20% fenestrations on the wall facing the street and eliminating maximum fenestrations or any regulations related to the roof.

Mitigating elements

Porches & Architectural Articulation

Architectural features can mitigate the impact of garages on the street. Rather than requiring garages to be pushed back, there can be a visual appeal in having the garage align with the front façade of the house when counterbalanced by a porch, entry canopy, recessed entry, horizontal element, or roof that sufficiently mitigates the impact.

The builder's group suggests that when these architectural features are present, the Garage Plane should be permitted to align with the face of the building, rather than set back. Councilors have also pointed to several examples of attractive garages in Newton where these architectural features are present and propose creating rules to allow for these options.

Staff agrees that these features can work well as a counterbalance to Front Facing Garages and have given careful consideration to how the Garage Ordinance might be able to regulate this type of design. However, trying to regulate for some of the possible garage configurations and mitigating considerations proposed by the Committee and the building professionals group pose several challenges. In the latest iteration of the draft zoning ordinance, Porches are understood to act as Building Components. In the draft zoning ordinance, front porches are incentivized through an allowance for them to project into the front setback. Under current zoning, there is no such allowance, and staff believe that without that incentive, the number of Porches built for this purpose will be marginal. It is also difficult to determine the dimensions of a porch that would sufficiently offset a garage.

Furthermore, if the Committee decides to require Front Facing Garages to be set back unless one of these architectural elements is present, every one of those elements will need to be clearly defined. This would require very prescriptive standards and likely a whole page checklist for each different type of architectural element in order for ISD to make determinations. There would also need to be language ensuring that these mitigating features are permanent fixtures.

Given these challenges and the complexity of creating precise standards for these elements, Staff suggests revisiting this mechanism as part of the larger Zoning Redesign effort, once these definitions have been more refined and fine-tuned. Alternatively, the Committee might consider whether it would be appropriate to allow for this type of design through the Special Permit process within the current ordinance.

Decisions

- Should we create standards that would allow Porches & other architectural articulation to serve as mitigating elements for Front Facing garages to align with a main building face by right? If not, should it be allowed by Special Permit?

Other outstanding topics

Below grade garages

Garages that are Front Facing but tucked under, so they are a half or full story below the main entry of the house have not been explicitly addressed in the draft so far. Members of the building professionals group have suggested that the total width of these garages should not exceed 50% of the total width of the facade measured at grade and that they could have different regulations for placement. The width of a tucked under garage is already addressed in the proposal and would be limited to 50% of the widest portion of the building facade (typically the story above the garage). Defining when a garage becomes “tucked under” would complicate the ordinance so staff recommends applying the same placement requirements as all other front facing garages.

Projecting garages

Garages that project forward of the main elevation of the house have also not been discussed in the current draft. The building professionals have recommended that garages may project forward of the main building if limited to 1 or 1.5 stories.

Staff will explore limiting Side Facing Garages that project in front of the elevation of the house to 1.5 stories. Because of the difficulty involved in changing how stories are calculated, staff are not proposing a story limit for projecting Front Facing attached garages, but it may be easier to apply this limitation to Side Facing Garages. Limiting an attached garage to 1.5 stories presents challenges as our current ordinance determines stories based on the entire structure, not a portion of the structure and it could require more of the garage to project forward, which conflicts with our goals for front facing garages. Redefining stories within the current ordinance would also create confusion and could lead to many unintended consequences.

Exemptions

At previous ZAP meetings, the Committee discussed two exemptions. The deferred ordinance exempts a garage from the standards outlined in 3.4.4 if the garage is set back more than 70 feet from the Primary Front Lot Line. Setting the garage far back from the street frontage was deemed appropriate to mitigate the visual impacts of the garage. Members from the building professionals group agreed with this exemption and suggested it should apply in all districts. Staff recommend exempting all garages set back more than 70 feet from the Primary Front Lot Line in all districts.

The second exemption is for garages on lots which slope up or down from the Primary Front Lot Line with an average preconstruction slope of 20% or more. These standards may be difficult to adhere to on steep lots, and an exemption would allow some leeway for those with challenging topography on the lot. After consultation with ISD, staff recommends eliminating this exemption. The Zoning Board of Appeals already has a process and established threshold that can be used to determine hardship and acquire a variance granting zoning relief for cases like an extreme slope.

Garages that Become Non-Conforming

The proposed garage regulations will result in some garages that are conforming under the current zoning to become nonconforming. This is likely to have little impact to the homeowners as these new regulations will only apply to new garages and renovations of existing garages. A use or structure is

considered nonconforming, as opposed to noncompliant, if the use or structure was legally permitted prior to zoning changes. A nonconforming structure or use can remain in perpetuity in its current state. An entire property is not classified as nonconforming, just the element that no longer complies with zoning. For example, if a homeowner has a garage that projects forward of the house and an ordinance is passed requiring a minimum setback from the front of the house, the owner would not be required to change the garage to comply. The owner could also add on to or modify any other portion of the house as long as it was compliant with zoning and they did not make the garage any more nonconforming than its current condition. The only time the nonconforming placement of the garage would need to be addressed is if the owner wished to extend the width of the nonconforming portion of the garage, which would then require a Special Permit.

Massachusetts General Law, Chapter 40A, Section 6 grants broad rights to owners with nonconformities and provides a process for extending those nonconformities. Section 7.8 of the current zoning ordinance deals with nonconformities and a nonconformity may be altered or enlarged through a Special Permit as long as the City Council finds that “such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood” and the City Council shall impose such conditions as may be necessary to protect the neighborhood from injury.

Looking Ahead

Staff plan to share a revised draft of the Garage Ordinance that incorporates feedback received from the building professionals and the Committee for the next ZAP meeting discussing the Garage Ordinance, which remains to be determined.