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Director  
Planning & Development

#### Members

Peter Doeringer, Chair  
Kelley Brown, Member  
Sudha Maheshwari, Member  
Jennifer Molinsky, Member  
Sonia Parisca, Vice Chair  
Chris Steele, Member  
Barney Heath, *ex officio*  
Kevin McCormick, Alternate  
James Robertson, Alternate

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# PLANNING & DEVELOPMENT BOARD JOINT MEETING WITH ZONING & PLANNING COMMITTEE MINUTES

January 25, 2021

#### Members Present:

Peter Doeringer, Chair  
Sonia Parisca  
Kelley Brown  
Sudha Maheshwari  
Kevin McCormick  
Jennifer Molinsky  
Barney Heath  
James Robertson  
Chris Steele

**Zoning & Planning Committee Members Present:** Councilors Crossley (Chair), Danberg, Leary, Albright, Wright, Krintzman, Baker, and Ryan

**Also Present:** Councilors Bowman, Kelley, Lipof, Downs, Malakie, Greenberg and Laredo.

#### Staff Present:

Chief Operating Officer Jonathan Yeo, Commissioner of Inspectional Services John Lojek, Director of Planning Barney Heath, Deputy Director of Planning and Development Jennifer Caira, Senior Planner Zachary LeMel, Associate Planner Cat Kemmett, Community Engagement Planner Nevena Pilipovic-Wengler, Assistant City Solicitor Andrew Lee, Committee Clerk David Olson

Meeting held virtually by Zoom Meeting

#### 1. Discussion and possible vote on Docket Item #448-20, Proposal to amend Newton Zoning Ordinances Chapter 30 Section 3.4 Garages

The Chair of the Zoning & Planning Committee opened the meeting and introduced those in attendance at the meeting. She noted that ordinance A-78 has been deferred multiple times and if not amended will go into effect on April 1st. She then asked Associate Planner Cat Kemmett to present the key components of the proposed Garage Ordinance prior to opening the public hearing. Ms. Kemmett stated that the goal of this proposed ordinance is to limit the visual impact and dominance of garages from the street, while still allowing options for lots of all shapes and sizes. This is to be accomplished by regulating the width of front-facing garage doors relative to the total width of the structure. The relative width regulations will only apply to front facing garages and will be measured as the sum of the widths of all front facing garage doors.

Front facing garages will be limited to 45% percent of the total front elevation of the structure if using only single garage doors, or 40% of the total front elevation if using a double garage door. The total door width on any part of the front elevation which is set back more than 10 feet from the front most exterior wall will be excluded from the total. Single garage doors may be up to 9 feet wide and double garage doors

may be up to 16 feet wide. Door width maximums will apply only to front facing and side facing garages as the doors are more visible from the street.

Residential properties with one unit will be allowed up to two garages, one attached and one detached, with a limit of 700 square feet in total ground floor area and up to three cars. This is not changed from the current ordinance. Residential properties with two units will have a maximum garage footprint for each unit of 500 square feet, and each garage will be limited to two cars. The width regulations will limit the impact of garages close to the street because garages more than 10 feet in front of the main body of the house would be calculated just on the front facing garage wall.

Side facing garages will be allowed in front of the main elevation of a house as long as there is at least 10% fenestration on the garage wall facing the street. A front facing garage which is set back more than 10 feet from the front elevation is exempt from the width standards for front facing garages. A garage that is 70 feet or more from the primary front lot line, and garages located on rear lots, will be exempt from the standards for front and side facing garages. In contrast, Newton's current zoning ordinance does not place any restrictions on garage door width, overall garage width, or fenestration. Garage placement on the lot is limited only by the setback requirements, and up to 700 square feet in total ground floor area of garage space is allowed by-right.

This ordinance, if adopted, will only apply to new garages and renovations of existing garages. A nonconforming garage can remain in perpetuity in its current state. A lawfully nonconforming structure does not need to comply with the requirements of a zoning change. Ms. Kemmett noted that since the December 14, 2020 draft, a few minor changes have been made including:

- The required separation between accessory and principle buildings has been reduced from 6 feet to 5 feet
- The placeholder definition for rear-facing garages has been removed
- The definitions of front- and side-facing garages have been updated to clarify measurement for curved primary front lot lines
- The means by which the primary front lot line will be determined for properties where the main entrance does not face a street has been clarified

The Planning Department recommends that, if adopted, the ordinance have an effective date of April 1, 2021, and not apply retroactively. This would give building professionals ample time to understand the new zoning, and to ensure that any currently permitted projects will be able to go through before any new standards are put in place.

The Public Hearing was then opened.

Peter Sachs stated he had shared illustrations to convey the difficulties in placing the garage on smaller properties (7,000 sq. ft. with 70 ft. width), particularly two-story, 30' by 40' center entrance colonial properties, when you cannot put the garage fully in front of the house. He said that if you cannot put the garage fully in front of the house, it will limit the ability to create an accessory dwelling unit (ADU) over the garage. This makes it very difficult for smaller properties to take advantage of ADUs by utilizing the garage structure as a conversion. Newton is beautiful because of its variety, its topography, its variety of houses and designs, and different lot structures all over the city. It's very difficult to write a singular proposal for an ordinance without a special permit option because there is so much variation. He encouraged the committee to adopt a special permit clause. He did not feel that both of the architects groups have participated enough in the formation of this ordinance. The Chair of the Zoning and Planning Committee stated that there are many architects and builders present who participated in the process and that they can speak to that.

Dan Powdermaker said that he had rehabbed and renovated primarily Victorian houses over the last 20 years in Newton. What's in front of the committee in this ordinance certainly does reflect input from him and from other builders and architects. He said although it's not everything that architects want, it does address a lot of their concerns in terms of maintaining flexibility in design, especially in a city with many highly irregular lot sizes and shapes. Buyers want garage spaces with their properties, and being able to have some flexibility in placement, while at the same time addressing some of the aesthetic concerns that have prompted a lot of complaints in terms of oversized garages, this proposed ordinance does seem to accomplish a lot of that. To Mr. Sachs's point about ADUs, Mr. Powdermaker said that the intent originally was to have the garage revisions as part of broader zoning reform. That has not happened and there's certainly a lot of other things, including parking and driveway concerns, that he hopes the Council gets to in the coming months as they look at broader reform.

Treff Lafleche, another architect, stated that he has participated in the review and negotiation of the changes in the garage ordinance. Although in his opinion it is still not as clear and as good as it could be, he believes that it is moving in the right direction. It was vetted by builders, developers, and architects. In working with the Planning Department, the builders group was able to clarify a number of things that were important, primarily responding to the reality that garages are part of the living space of a home. They are not only to house automobiles. The value of the garage is much greater than many of the members of the Council appreciate. He said that this ordinance lacks some clarity related to the amount that garages be allowed to come forward of the house, primarily because of sustainability. One of the things that folks are trying to deal with is the amount of stormwater runoff due to impervious surface areas and garages. The natural tendency these days is to move garages from the rear of the property to the side or to the front to reduce the amount of impervious surface related to driveways. Allowing the migration of the garage achieves a very important goal of sustainability.

Nathaniel Lichten said that if you allow a garage to be 45% of the width of the house, it should not be able to project that far forward, and certainly without a special permit. A special permit process for moving the garage in front of the house is more acceptable, but he is worried that with 45% of the width, and 10 feet in front of the house, we're going to just continue to have the snout houses that we currently have. It isn't pedestrian or neighborhood friendly. It makes the garage the predominant feature of the house. He thinks that the 10-foot rule should be reduced, or a special permit criteria should be added. The second point is that there is a special permit allowance for having more than three cars for a single dwelling unit, but no special permit option for increasing the number of cars for a two-unit building. You could have five cars on a single family lot if you get a special permit, but there's no ability for a two-family house to have that same five-car garage, or two garages - a two-car garage and a three-car garage. There should be special permit criteria for the two-dwelling unit to match the single-family special permit criteria that exists in the ordinance.

Lisa Monahan, a member of the architect and builders group, stated that much of her feedback had already been said. She shared her sentiment that a lot of good has occurred by way of developing a process around this project and that the Planning Department and the Zoning and Planning Committee have worked really well together in going through a really complicated ordinance. It was also the first opportunity that the building professionals had as a group to weigh in and offer some opinions. And although she agrees that it's not perfect, she thinks that lots of improvements were made, and there will be a chance to go back and fine tune things.

Jay Walter applauded the restraint shown in the proposal, stating that it does not overregulate the location of the garage. He believes that the dimensional constraints and defining the width of the garage relative to the house will address the issues of major concern that created the need for this garage ordinance. The work on the garage ordinance, and on garages in general, is not over. Zoning Redesign will address issues of paving, lot coverage, accessory apartments, and accessory buildings that will

further help define more acceptable garages and their placement on lots. He disagreed that this regulation should include more special permitting, and believes it has enough flexibility written into this ordinance that you don't need additional special permits. However, he agreed with the earlier speaker about the number of cars relative to single-family dwellings versus two-family. That should be addressed, as well as better clarification of corner lot conditions.

Ellen Katz, an architect, referred to a drawing and analysis she had sent to the committee. The new garage ordinance is an improvement in many ways in her opinion, however, it encourages larger garages in the case of people wanting to build accessory units. The garage is limited to 700 square feet and one and a half stories. If you build out to the full 700 square feet, the one and a half story limit allows you to have about 450 square feet of living space above the garage, which is about the size of an efficiency apartment in Manhattan. If you build a significantly smaller garage you end up with much less living space over that garage. She said there's an incentive there to build the largest possible garage, because that's the only way to get an accessory apartment unit over it. For a one-car garage of 300 square feet, you'd only end up with 200 square feet above it, which doesn't meet the minimum requirements for an accessory dwelling unit. Under this proposed ordinance, if you don't build out to the maximum square footage, you can't build a studio apartment above. She stated that the ordinance is encouraging the largest possible garage, maximizing lot coverage and discriminating against homeowners in neighborhoods with historically small lot sizes such as Newton Upper Falls. This ordinance could be fixed by allowing two full stories if the garage footprint is 500 square feet or less. If the structure is 500 square feet or more then you can limit the building to one and a half stories.

Mark Sangiolo, a building professional, explained an issue he was experiencing for a two-family townhouse project he is working on. When you have a two family, you're not allowed to put Unit One's garage up against Unit Two. You have to create this awkward living space that is dedicated to Unit One as a buffer between Unit One and Unit Two. He does not understand the rationale, it seems like a weird interpretation of some rule. He dislikes being constrained in the design and doing less good design or worse design, like putting the garages on each end of a two family. It sets where you can put your windows, etc. You can't put the garages next to each other, nor can you have one garage in between Unit One and Unit Two because that puts it up against the second unit. He thought it was being addressed, but discovered recently that although a related clause has been removed from the draft ordinance, another clause remains that ISD interprets to mean the living spaces in two units must be contiguous - and does not include a garage. He hopes it can be fixed somewhere else in the ordinance.

The Chair of the Zoning and Planning Committee noted that she spoke with Mr. Sangiolo earlier about this, and with Ms. Caira and the Law Department. The clause in question in the proposed garage ordinance was eliminated, but in the first section of the ordinance, Section 1.5.1B. That definition does not belong in the garage ordinance but is an issue that needs clarification in terms of how it's being interpreted by the Inspectional Services Department. The law department is now engaged in assessing the language and ISD's interpretation. Ms. Caira stated that the issue does lie in the definition for two-family detached structures in Section 1 and how the two units meet each other, including needing living spaces touching for the entire length. This issue is something that is best addressed in the Section 1 definition, not as part of the garage ordinance, as the issue isn't coming from the garage ordinance. The Chair noted that anything that lacks clarity in the ordinance, or that people are interpreting in unexpected ways, needs to be looked at, and should be fixed separately.

The Chair of the Committee called for a motion to close the public hearing which was approved unanimously. She then brought the discussion back into committee. Topics of discussion in Committee included the following:

### **70-foot Exemption**

Concern was raised that the 70-foot exemption would create an incentive to build snout houses further back on long, narrow properties. The Committee took a straw poll and the majority (5- 3) did not have a problem with the exemption.

### **Definition of two family attached**

It was asked if the clause that Mr. Sangiolo was concerned about has reopened what was remembered as the “linguini” problem. That is, skinny odd sections of living area that are not useful but have been required to meet the interpretation of this definition. Commissioner Lojek noted that a former council was fighting with the problem of two-family houses that appeared as though they were two single-family houses attached by some tenuous attachment. The rule was developed so that garages couldn't be the attaching point of a two- family home. The purpose behind this was to have the building look like a singular building that had two units in it, as opposed to two single-family houses that had a couple of little garages between them. Linguini simply referred to a tenuous attachment between the two units, as if it were a piece of linguini between the two. The point is that it has to be substantially connected unit to unit. You cannot just have the connection be garage to garage between two units that are essentially side by side buildings. It was stated that the definition in 1.5.1B warrants a closer look by itself as it requires that there be a shared wall the full height of one or both of the units, or a clear separation horizontally between units, but in that definition there's no mention that you can't have a garage be part of the building.

### **Attached Versus Detached Garages**

There was a question about the new minimum distant requirement between the main house and detached garage. If a garage is attached, it must meet the setback requirements of the primary structure; if it's a true accessory structure it can get within five feet of a lot line by right. In the past there was gaming that went on that the Commissioner of Inspectional Services was concerned about, so he proposed setting a minimum distance between the structures.

### **Accessory Dwelling Units above a Garage**

The current ordinance provides for a maximum by-right garage of 700 square feet except by special permit which is going to stay the same. There is no required minimum size except that a car must fit in it, so a small single-bay garage would have to be about 300 square feet. It is true that a half story above that by itself would not allow for the minimum 250 square feet for an ADU, or even allow for a staircase to be added within it, however, that doesn't take into account the potential for adding to the footprint of the building. To create an ADU on top of a small garage you are going to have to create vertical space by adding square footage to the garage to get the minimum space required above. This is the case in our current ordinance. If someone has a tiny garage, they must add to it in order to put something on top of it. Currently, the accessory building section limits the height for all accessory buildings, which includes garages, to one and a half stories. It is certainly worth looking at ways to go above the one and a half stories in order to encourage accessory units, but it should be done separately outside of this garage ordinance. The committee felt that the accessory dwelling unit issue needed additional discussion but should not be taken up as part of the garage ordinance at this time. The garage ordinance must be passed by April 1st, otherwise ordinance A-78 will become effective (unless repealed) and that is not the intent of the committee. There was initial consensus that the garage ordinance should be moved forward.

### **Implementation Date**

It was noted that the Planning Department has recommended that the ordinance not be implemented retroactively and should have full implementation by April 1. A councilor questioned if an implementation date of April 1 was enough time for the industry to understand the changes. It was stated that usually when changes are made to the building code, the new code goes into effect on January 1 of the coming year and is optional for six months in order to give people time to understand

the changes and get through a design cycle. The committee should keep in mind what happened when changes were approved in 2016. People were caught in the middle of a project that was well into design, but not yet permitted.

### **Corner Lots**

There was a great deal of confusion regarding the corner lot issue and it was stated by several Councilors that it might be worth having one more meeting to discuss the issue. In response Ms. Caira stated that the currently proposed ordinance does not regulate the overall width of garages that are facing the secondary frontage on corner lots. Corner lots are subject to two front lot line setbacks, so it doesn't leave a whole lot of space to work with on corner lots. The options for where a garage can be placed on a corner lot are going to be more limited if you're controlling both of the street frontages as if they were primary front lot lines. The secondary frontage is often narrower, so it's going to be difficult to have a garage that's facing the secondary frontage meet the width requirements. Ideally the ordinance is addressing the street presence on both streets and on the corner lot you're not going to get the overwhelming sense of house after house with garages that are really prominent, it would be limited to the corners.

Once the corner lot setbacks were reviewed it was realized that garages wouldn't dominate the secondary streets like they would if all of the houses were unregulated. Garages facing the secondary frontage are considered side facing garages. They are not the side facing garages that project to the front of the house, so they don't need the fenestration, but they must comply with the 9-foot single garage door and 16-foot double door garage requirements. They don't have a provision regulating the overall width of the garage, but they are restricted to the door sizes. Ms. Caira noted that she could put together a memo explaining this for the next meeting. It was stated by a Councilor that the garage facing the secondary street should not have to comply with the same setback as a garage facing the primary street. Ms. Caira explained that current zoning ordinances require them to be treated the same, and that a change to a setback requirement on the secondary frontage should be taken up in a separate discussion as part of zoning reform.

### **The Use of the Word Automobile**

A Councilor asked that the word automobile to define the use of a garage be eliminated from the ordinance. Garages are used for more than just automobiles. Planning staff said they will consider alternate language.

## **2. Adjournment**

There was consensus that the committee should have one more meeting to discuss the ordinance. A motion by the Zoning and Planning Committee to hold this item for one more session, which will be February 8, 2021, was approved unanimously.

The Planning and Development Board also voted unanimously to hold the item. The Planning and Development Board meeting was adjourned at 8:58 p.m.