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Mayor

Barney Heath
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 MEETING MINUTES

February 1, 2021

Members Present:

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

Staff Present:

Barney Heath, Director of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Nevena Pilipović-Wengler, Community Engagement Manager
Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

1. Discussion and possible vote on Chapter 30 Section 3.4 Garages

The meeting was opened at 7:02 p.m. Ms. Kemmett provided an update on the Garage Ordinance and the public hearing held on January 25th. She explained some of the key mechanisms in the Garage Ordinance including:

- Front Facing Garages would be limited to 45% of the total Front Elevation if providing only Single Garage Doors (Sec. 3.4.4.C.1.a) or 40% if providing a Double Garage Door (Sec. 3.4.4.C.1.b) unless otherwise exempted
- For Front Facing Garages and Side Facing Garages. Single Garage Doors may be up to 9 feet (3.4.4.C.2 and 3.4.4.D.2), and Double Garage Doors may be up to 16 feet wide (3.4.4.C.3 and 3.4.4.D.3)
- The proposed draft carries forward the same ability in the current Zoning Ordinance to seek a Special Permit for a Garage providing space for more than 3 cars or over 700 square feet in area, and also allows more than 2 garages by Special Permit (Sec. 3.4.4.H.1)

Since the Garage Ordinance was last discussed with the Board, there were a few minor changes made to the ordinance text. These changes include:

- Sec. 3.4.3.A.2 was amended to change the required separation between accessory buildings and principal buildings from 6 feet to 5 feet.
- The placeholder definition for Rear Facing Garage was removed. Staff determined that this definition is not necessary. Garages that face the rear of a property or lie at an angle that does not fall under the definitions of a Side or Front Facing Garage, will be allowed under the definition of a Garage.
- The definitions for Front Facing Garages and Side Facing Garages were updated to clarify how to measure the angle that determines the Garage type for curved or otherwise not straight Primary Front Lot Lines (Sec. 3.4.4.B.3 and 3.4.4.B.2).

- The definition of Primary Front Lot Line was amended to clarify the procedure for properties where the main entrance does not face a street or right of way (Sec. 3.4.4.B.8).

Mr. Heath added that further discussion of the ordinance and a possible vote will take place at ZAP on February 8th. Chair Doeringer asked for clarification on the outstanding questions about the ordinance must still be addressed.

Ms. Kemmett explained that Board and Committee members had a number of questions about topics closely related to garages including the definition of Two-Family, Detached buildings (Sec. 1.5.1.B) and the link between garage design and Accessory Apartments (Sec. 6.7.1). Staff have flagged these important points for future analysis, to be taken up either under Zoning Redesign or a cleanup of those individual sections at a later date.

She explained that there were a few topics raised at that meeting that staff have since looked into further including concern about the 70-foot exemption in Sec. 3.4.4.G.1., the use of the word automobile in the ordinance, and requests for further clarification about garages on corner lots.

Mr. Brown asked for more context about how ZAP decided to allow garages forward of the house. Mr. LeMel said that this represents a compromise. Promoting flexibility asked for by building professionals. If there was a setback, there was no consensus on how big that setback might be. This compromise ensures the worst of the worst garages will be prevented, but gives builders needed flexibility in design.

Ms. Maheshwari asked for further clarification on the concern about corner lots. Ms. Kemmett said that staff will more clearly explain how corner lots will be handled in the ordinance at the next ZAP meeting. Chair Doeringer noted that we should be considering all streetscapes, not just the primary front lot line for each house. Careful consideration should be given to how garages on corner lots facing the secondary street are regulated, because if they are allowed within 5 feet of the lot line, it may be too close to the street and have a negative impact. Mr. LeMel said that there aren't many detached garages being built now, but this is something to think about and consider. The upcoming Planning memo will clarify how corner lots will be impacted by the ordinance.

Ms. Molinsky asked if there should be a special permit option for relief from design constraints for lots with difficult shapes or topographies. She said that Mr. Brown made a compelling argument at the public hearing for why we shouldn't go down the road of needing additional special permits without careful consideration of the purpose those special permits will serve. She said that if such a special permit were available, the criteria should make very clear what is allowed and under what circumstances.

Mr. LeMel explained that there are a lot of permutations in the ordinance that would allow for garages no matter the lot size or configuration. For that have major topographical hurdles, applicants also had the option of seeking a variance.

Mr. Brown expressed that in his opinion, the special permit as written was not necessary, since lots facing hardships could seek a variance. Alternatively if the special permit option is retained, he recommended setting clear criteria such as ensuring the garage would not be visible from a public way, or that it be located a certain distance from the front lot line, or other rules to that effect.

Mr. Brown asked why the front facing garages standards should not apply if the garage was set back 10 feet. Mr. LeMel said that the rationale is that if the garage is set back that far, it fades into the background and is less prominent, and that those garages would still be limited to the 700 square foot maximum.

Ms. Molinsky voiced that she was ready to vote on the issue and that in the recommendation, the nuances of the conversation of the Board and their suggestions would be conveyed rather than simply recommending for or against the ordinance. Chair Doeringer then asked for input for language to use in the recommendation.

Mr. Brown suggested recommending against special permits, or if they are kept in, setting precise conditions for those special permits. Ms. Molinsky agreed on the importance of precise and clear criteria. Chair Doeringer noted that if the special permit option is removed, that would take away a certain degree of flexibility for homeowners, and that by carefully crafting the conditions under which a special permit should be granted and setting reasonable restrictions on them, we can retain flexibility.

Chair Doeringer then called for straw vote on getting rid of the special permit in the ordinance, which did not pass. He then called for a straw vote on setting conditions for the special permit, and that motion did pass.

Ms. Molinsky said that the ADU issue brought up in the public hearing was important, but that it should be part of bigger discussion about how we facilitate ADUs in the city. She said that the Garage Ordinance is probably not the best place to address ADUs, but that the recommendation should reflect the importance of discussing ADUs soon.

Chair Doeringer noted that the recommendation should encourage further consideration of corner lots and making sure the streetscape is considered on side streets as well.

Upon a motion by Mr. Steele, seconded by Mr. Brown, the Board voted 6-0-1 in favor of recommending approval of the amendment to Chapter 30, City of Newton Zoning Ordinances by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in the revisions to Chapter 30, Section 3.4 with Mr. Heath abstaining.

2. Zoning Redesign Update

Mr. LeMel then introduced the topic of Zoning Redesign and asked for feedback from the Board on how they would like to move forward. Planning has presented a plan to move forward comprehensively, but even if the sentiment is to move forward with incremental change rather than comprehensive, this workflow would work. The workflow outlined in the Planning memo includes in-depth research and frequent touch points with members of the public to gauge interest and response to proposed zoning changes.

Chair Doeringer said that Zoning Redesign has gotten negative feedback from some community members in the past who felt that the process did not meaningfully incorporate their voice. He said that if this is to be a community document, the public needs to be engaged and the comments they provide should help shape the process and the zoning itself.

Mr. LeMel agreed that people need to feel buy-in and be engaged early and often in order for this process to work well. He added that feedback from the engagement events in December helped confirm this, as several people mentioned the need for a referendum on Zoning Redesign at those meetings.

Mr. McCormick said that the community should be engaged but noted that the Planning department will continue to play an important role in writing the zoning itself and facilitating the engagement process. It will not be purely community driven because the city is involved, but the community plays a critical role.

Mr. Brown asked what a referendum for Zoning Redesign would accomplish. Mr. Heath said that a vote could be challenged, similar to what happened with the Northland project. Mr. Brown said that while

everyone would prefer to reach a general consensus on a path forward with Zoning Redesign, it is a politically charged issue and a lot of differing opinions. He noted that despite the best efforts of the Planning Department, the vast majority of participants in the December engagement events were older white homeowners. This is a common issue in the suburbs, and there is research that supports a lack of true inclusive and representative participation in public processes like this. Mr. Brown further added that while these hurdles are significant, putting effort into educating people and engaging them in conversations about the substance of policies is important if we are to create real and impactful change. He acknowledged the difficulty of taking on a comprehensive change like this and expressed a hope that the complexity and political nature of this work would not deter people from considering progressive changes.

Ms. Molinsky said that something the project still lacks is a good website with clear and accessible information, which can help educate people and cut down on the amount of misinformation about zoning. She suggested being more clear about the difference between affordable housing that is subsidized and housing that is more affordable relative to the housing prices in the market now, because the two are very different and we need to be very clear about what level of affordability can be achieved through zoning and what can be achieved through funding and subsidy. Ms. Molinsky added that at some point there should be a conversation about the role of the Board in this process, and the question of whether there will be changes made to the special permit granting authority powers in the city.

Mr. Heath responded that the conversation has not yet progressed to the part of the ordinance that addresses the special permit granting authority and those powers, but that it will be addressed. He affirmed Mr. Brown's point about engagement and diversity and said that it is important to make sure we are reaching out to people with a variety of viewpoints and backgrounds and including them in these conversations and processes. He said that the upcoming focus on village centers should be a good testing ground for some of these conversations.

Mr. McCormick seconded Ms. Molinsky's suggestion to better clarify what affordability means in terms of zoning and asked to what extent the three goals the ZAP agreed on for Zoning Redesign were still part of this process.

Mr. LeMel said that those goals are still important, but if the committee decides to go forward with the geography based framework, it would be appropriate to revisit the foundational documents like the Pattern Book, Comprehensive Plan, Climate Action Plan, etc. to plot the direction forward while rooting the work firmly in the goals and visions the city has in place now.

Ms. Pilipovic-Wengler added that much of the feedback from the December event focused on the legitimacy of the process, and the sense that some participants shared that Zoning Redesign is being spearheaded by city staff rather than by elected officials. In order to go forward with effective community engagement, there needs to be a sense that these changes are needed and will have a positive future impact.

Chair Doeringer said that there seems to be a sense from some members of ZAP that the best path forward is to tackle individual problems, in the vein of the Garage Ordinance, and that it is more effective to fix the zoning we have now rather than create a new ordinance entirely. He added that it's important not to take a one size fits all approach to the different topics, and to make sure each topic is given the appropriate nuance necessary. He recommended bringing in outside experts and case examples to explain what have worked elsewhere, and what could be adapted to the unique context in Newton.

Ms. Molinsky seconded the importance of bringing in outside learning from other cities. She also suggested hosting a charette to foster dialogue between residents and interactive participation, when it is safe to do so.

Mr. LeMel asked for the Board's thoughts on approaching changes piecemeal rather than comprehensively. Chair Doeringer said that it can be hard to convince people that a holistic change is better since the process is so long, but that in his opinion comprehensive change would be preferred because so much change is needed and many elements are interconnected and could not easily be taken on independently. Mr. McCormick added that the Garage Ordinance was a long and difficult process, and to do that over many iterations for dozens of topics individually would likely take years. Mr. Steele and Ms. Molinsky concurred that thinking and working systemically would be preferable to a piecemeal approach.

3. Discussion Items

Housing Choice

Mr. Heath gave an update on the Housing Choice bill signed into law in January by Governor Baker. The Housing Choice provisions change state law to lower the vote threshold needed to adopt certain zoning changes from two-thirds to a simple majority. This language went into effect immediately. Also included in the bill are new multi-family zoning requirements that are likely to impact Newton. The bill requires "MBTA Communities," those communities served by MBTA transit stations, to include at least one zoning by-law or ordinance that provides for at least one zoning district of reasonable size in which multi-family housing is allowed as of right with no age. Communities that fail to come into compliance with this will no longer be eligible for funding from the Governor's Housing Choice Initiative, the Local Capital Projects Fund, and the MassWorks infrastructure program.

Guidance from DHCD will be forthcoming on the finer details of these new requirements, and there is not yet a clear date by which the changes to zoning must be completed. Newton has used funding from MassWorks in the recent past, so there is strong incentive to make those amendments in the near future.

Housing Trusts

Mr. Heath explained that members of the CPC and Newton Housing Partnership have discussed the possible formation of a housing trust. Over 100 Massachusetts communities have a trust in some form or another. State legislation allows for the creation of trusts and nearby communities including Somerville, Cambridge, Brookline, and Salem have trusts. Somerville and Cambridge get direct allocation from CPA funding that they use to develop affordable housing or fund affordable housing projects. This topic was introduced several years ago at CPC but did not have the support to move forward. Lara Kritzer has been researching and engaging with communities that use these trusts to better understand the pros and cons to see if it would be a good fit for Newton's needs.

Mr. Heath explained that one of the key questions here is to see if there is a way to move more quickly and efficiently using trusts to develop affordable housing. Some communities have used HOME funds for their trusts, some do not. There is a lot of variation in how they operate and how they are configured depending on the municipality. In several weeks at ZAP staff will present what they have learned so far from neighboring communities and what an approach that includes a housing trust might look like in Newton.

Chair Doeringer asked if there were any examples of trusts that used a significant pool of money other than CPA funds. Mr. Heath explained that some towns use funds from inclusionary zoning or use general

funds. In Newton, he believes the bulk would likely be CPA funding. Mr. Brown added that general funds could be used for this purpose and a housing trust could accept cash donations.

CDBG Human Service/ Emergency Solutions Grant Reviewers

Mr. Heath explained that the annual round of CDBG funding is coming up and he has been authorized to ask several Board members to participate on the review committee for Human Services and for the Emergency Solutions Grant program. He noted that past participation in these reviews by Board members has proven very helpful to the process.

Mr. Brown and Mr. McCormick volunteered to participate in the Human Services review, and Ms. Maheshwari and Ms. Molinsky volunteered to assist with the Emergency Solutions Grant review.

4. Minutes

Upon a motion by Ms. Maheshwari, seconded by Ms. Molinsky, the minutes from January 4 and January 5, 2021 were accepted 7-0-0 and 6-0-1 respectively, with Mr. Steele abstaining from the vote for January 5th.

5. Adjournment

Upon a motion by Mr. Steele, seconded by Ms. Molinsky and unanimously approved, the meeting was adjourned at 9:09 p.m.