



City Council Actions

In City Council

Tuesday, September 3, 2019

Present: Councilors Albright, Auchincloss, Baker, Brousal-Glaser, Ciccone, Cote, Crossley, Danberg, Downs, Greenberg, Grossman, Kelley, Krintzman, Lappin, Leary, Lipof, Markiewicz, Noel, Norton, Rice, Schwartz and Laredo

Absent: Councilors Gentile & Kalis

The City Council discussed the following items on Second Call:

Referred to Public Safety & Trans., Public Facilities and Finance Committees

#156-18 **Ordinance amendments for enforcement and fines for sidewalk clearing violations**
COUNCILORS DANBERG, ALBRIGHT, CROSSLEY, NORTON, AND LIPOF requesting amendments to Chapter 17, Section 3 and Chapter 26 Section 8D of the Revised Ordinances to provide for enforcement and fines for violations of the sidewalk clearing ordinance.

Public Safety Approved 6-1 (Ciccone opposed) on 06/19/19

Public Facilities Approved 6-2 (Gentile and Lappin opposed) on 06/19/19

Finance Approval as Amended Fails to Carry 3-3 (Ciccone, Gentile, Lappin opposed)

Item postponed to a date certain of September 3, 2019

Approved 19 Yeas, 2 Nays (Councilors Ciccone and Lappin), 3 Absent (Councilors Baker, Gentile, & Kalis)

Motion to Reconsider made by Councilor Downs

Motion to Reconsider Failed to Carry by Voice Vote

Clerk's Note:

Referred to Public Safety & Transportation Committee

#578-18 **Shorten the duration of the winter parking ban**
COUNCILORS ALBRIGHT, COTE, KELLEY, GREENBERG, CICCONE, LIPOF, AUCHINCLOSS, RICE, DOWNS, KRINTZMAN, NOEL, AND NORTON, requesting to shorten the duration of the winter parking ban to begin on December 15 (instead of November 15) and end on April 1 (instead of April 15).

Public Safety & Transportation Approved 7-0-1 (Grossman abstaining) on 12/17/18

Item postponed to a date certain of September 3, 2019

Motion to Amend the end date to March 31st was Approved by Voice Vote

Motion to amend the start date to December 1st was approved 12 Yeas, 10 Nays (Councilors Auchincloss, Brousal-Glaser, Ciccone, Cote, Kelley, Krintzman, Lappin, Lipof, Norton, Schwartz), 2 Absent (Councilors Gentile & Kalis)

Approved as Amended 22 Yeas, 2 Absent (Councilors Gentile & Kalis)

Clerk's Note:

#179-19

Petition to amend Board Order #96-17 to allow bank use at Washington Place

WASHINGTON PLACE OWNER, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #96-17 to allow modification of Condition #34 to allow the petitioner to lease commercial space to not more than one commercial bank with a total square footage not to exceed 3,800 sq. ft. at 845 Washington Street and 245 Walnut Street, Ward 2, Newtonville, Section 21 Block 29 Lot 10, containing approximately 123,956 sq. ft. of land in a district zoned MIXED USE DEVELOPMENT. Ref.: Sections 7.3, 7.4 of Chapter 30 of the City of Newton Revised Zoning Ordinances, 2017.

Land Use Approved Subject to Second Call 5-1-2 on 06/18/2019 (Laredo Opposed, Schwartz, Markiewicz abstaining); Public Hearing Closed 06/18/2019

Motion to amend to the last sentence of Condition 3 to:

This requirement ~~shall take effect upon~~ **must be met prior to, and remain in effect after**, the issuance of a certificate of occupancy for a commercial bank.

was Approved by Voice Vote.

Motion to Approve as amended Fails To Carry 15 yeas, 6 Nays (Councilors Baker, Brousal-Glaser, Kalis, Markiewicz, Norton & Laredo), 3 Absent (Councilors Danberg, Downs, Gentile) on August 12, 2019.

A Motion to Reconsider this item was filed by Councilor Kalis on August 13, 2019.

The Motion to Reconsider was Approved by Voice Vote, 1 Nay (Councilor Brousal-Glaser)

A Motion to add Personal Services was Approved 14 Yeas, 8 Nays (Councilors Baker, Brousal-Glaser, Leary, Markiewicz, Noel, Norton, Schwartz, Laredo), 2 Absent (Councilors Gentile & Kalis)

A Motion to Recommit this item to the Land Use Committee was Approved 21 Yeas, 1 Nay (Councilor Brousal-Glaser), 2 Absent (Councilors Gentile & Kalis)

Clerk's Note:

Referred to Zoning & Planning Committee

#128-19

Zoning Amendment for short-term rentals

DIRECTOR OF PLANNING proposing to amend Chapter 30, City of Newton Zoning

Ordinances, in order to create a short-term rental ordinance that defines the short-term rental and bed & breakfast uses, identifies what zoning districts they would be allowed in and under what criteria, conditions, limitations and permitting process.

Zoning & Planning Approved as amended 4-0-2 on 6/24/19

Recommitted to Zoning & Planning Committee by City Council 6/27/19

Zoning & Planning Approved as Amended 6-0-2 (Councilors Baker and Kalis abstaining)

Item postponed to a date certain of September 3, 2019

Clerk's Note: This item was discussed and voted in conjunction with docket item #136-19 below.

Referred to Zoning & Planning, Public Safety, and Finance Committees

#136-19

Short-term rental ordinance with fees

DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.

Public Safety Approved 4-0-1 (Cote abstaining; Grossman not voting) on 06/05/19

Finance Approved 4-0 (Grossman recused) on 06/10/19

Zoning & Planning Approved as amended 4-0-2 on 6/24/19

Recommitted to Zoning & Planning Committee by City Council 6/27/19

Zoning & Planning Approved as amended 6-0-2 (Councilors Baker and Kalis abstaining)

Item postponed to a date certain of September 3, 2019

Motion to Amend Chap 20, sec 161(c) to add the word "inactive":

Sec. 20-161. Requirements for Short Term Rentals

(c) No Outstanding Code Enforcement or **inactive** Building Permits. Operators are prohibited from renting any Short Term Rental if the property is subject to an outstanding building, electrical, plumbing, mechanical, fire, health, housing, trash, noise or zoning code enforcement, including notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices, unpaid fines or if there are any **inactive** outstanding building permits for the property.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 20, sec.161(f) regarding Notice to Abutters

Sec. 20-161. Requirements for Short Term Rentals

(f) Annual Notice to Abutters. **The Operator must, within thirty (30) days after registration of a Short Term Rental, provide notice of such registration to all abutters, owners of land directly opposite any public or private street or way, and abutters to the abutters. Such notification shall include The Operator must, within thirty (30) after registration of a Short Term Rental, provide notice of such registration to all residential dwellings located within 300 feet of the Short Term Rental. Such notification shall include** the contact information of the Operator, the Operator's state and Newton registration number, and a reference to this article. This notice must thereafter be provided annually on the first business day of January **to all abutters, owners of land directly opposite any public or private street or way, and abutters to the abutters.** Failure to provide such notice shall constitute a violation of this ordinance.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman), 1 Nay (Councilor Brousal-Glaser)

Motion to Amend Chap 20, sec.164(j) regarding Access and Egress to add the text in

green below

Section Sec. 20-164. Responsibilities of Operators.

(j) Access and Egress; Operators of short term rentals, classified as one-family or two-family dwellings for the building code, shall be responsible for ensuring that adequate egress is provided in accordance with the appropriate section of the Massachusetts State Building Code, 780 CMR.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 20, sec. 164(i) regarding Notice of Registration to add the following text:

Sec. 20-164. Responsibilities of Operators.

(i) Notice of Registration. The Operator of every Short Term Rental shall post in a prominent place within the rental the house rules below as well as the certificate of registration with the City of Newton. The Operator shall clearly display the Newton Registration number in all advertisements or notices of the short term rental, including online advertisements.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5 purpose to add the following text:

6.7.5 Short-Term Rental

A. Purpose. The purpose of this provision and its complementary provision of the general ordinances is to maintain the long term residential use and quiet enjoyment of Newton neighborhoods while providing limited opportunities for rental income under carefully controlled conditions consistent with the foregoing objectives.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.C Standards to add the text in green:

6.7.5 Short-Term Rental

C. Standards.

2. The short-term rental accessory use is permitted in any residential use, excluding associations of persons living together in a common dwelling, congregate living, elderly housing, lodging house, dorms, accessory apartments, and similar residential uses.

Amendment Approved by Voice Vote, 3 Nays, 1 Recused (Councilor Grossman)

Motion to Amend Chap 20, sec. 166 and Chap 30, sec. 6.7.5.C Standards to change the effective date to January 2, 2020:

Sec. 20-166. Effective Date.

The provisions of this Article IX shall take effect on ~~October 15, 2019~~ January 2, 2020.

Chap 30 6.7.5 Short-Term Rental

B/C. Standards.

7. The effective date for this section 6.7.5 is ~~October 15, 2019~~ January 2, 2020.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.B.4 to amend the text as follows:

6.7.5 Short-Term Rental

B. Standards.

4. The burden of proof is placed on the resident registered with the City as the operator of the short-term rental to demonstrate that ~~they are~~ the resident is operating within the limits of this section.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.B.6 to amend the text as follows:

6.7.5 Short-Term Rental

B. Standards.

6. Temporary During Leasing. Short-Term Rentals in multi-unit buildings with a minimum of 10 units in a

business or mixed-use district may, **by special permit**, occupy residential units with short-term rentals for up to six months while units marketed as for rent are vacant ~~by special permit~~. Units designated as affordable may not be used as short-term rentals. Temporary Short-Term Rentals must register with the City as per Sec. B.1 above.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 20, sec. 162(g) to add the word lessee:

(g) Permission of Owner. An Operator must certify at the time of registration that he or she is the owner of the Short Term Rental or **as the lessee** has permission from the owner to operate the Short Term Rental.

Amendment Approved by Voice Vote, 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.B.3 to add the text as follows:

6.7.5 Short-Term Rental

B. Standards:

3. The operator of a short-term rental must occupy as their primary residence a dwelling unit within 300 feet of the short-term rental for a minimum of 9 out of 12 months during each calendar year.

Amendment Failed to Carry 17 Nays, 3 Yeas (Councilors Auchincloss, Kelley, Krintzman), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend: Chap 20, sec. 164(b); Chap 30, sec. 6.7.5.C.6; and Chap 30, sec. 6.4.5.B.10 as follows to state the operator must be on site:

6.7.5 Short-Term Rental

C. Standards

6. The resident of the dwelling unit must be in residence on site during the rental period.

Sec. 20-164. Responsibilities of Operators.

(b) Operator on Premise. The Operator must be present on-site during the rental period.

6.4 Commercial Uses

6.4.5 Bed & Breakfast

B. Required Standards

(10) A bed & breakfast use must be owner occupied. **The owner of the dwelling unit must be in residence on site during the rental period.**

Amendment Failed to Carry 11 Nays, 9 Yeas (Councilors Baker, Brousal-Glaser, Ciccone, Greenberg, Lipof, Markiewicz, Rice, Schwartz & Laredo), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.C.7 to add the text as follows:

6.7.5 Short-Term Rental

C. Standards:

7. The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 3 and the maximum number of guests is 9. **The number of days such rentals can occur is limited to 90 per calendar year.**

Amendment Failed to Carry 12 Nays, 8 Yeas (Councilors Baker, Ciccone, Danberg Greenberg, Lipof, Rice, Schwartz & Laredo), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.C.7 to change the number 9 to 6:

6.7.5 Short-Term Rental

C. Standards:

7. The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 3 and the maximum number of guests is ~~9~~ **6**.

Amendment Failed to Carry 16 Nays, 4 Yeas (Councilors Baker, Brousal-Glaser, Lipof & Rice), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.C.7 to remove the number of bedrooms:

6.7.5 Short-Term Rental

B. Standards:

5. . . .

~~The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 3 and the maximum number of guests is 9.~~

Amendment Failed to Carry 15 Nays, 5 Yeas (Councilors Cote, Downs, Krintzman, Leary & Noel), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, to remove the requirement of a Special Permit for 4 or 5 bedrooms.

Amendment Failed to Carry 13 Nays, 7 Yeas (Councilors Auchincloss, Cote, Kelley, Krintzman, Lappin, Leary & Noel), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Amend Chap 30, sec. 6.7.5.B.3 to add the text as follows:

6.7.5 Short-Term Rental

B. Standards:

3. The operator of a short-term rental must occupy as their primary residence the dwelling unit for a minimum of 8 out of 12 months during each calendar year.

Amendment Failed to Carry 13 Nays, 7 Yeas (Councilors Auchincloss, Cote, Kelley, Krintzman, Lappin, Leary & Noel), 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Approve #128-19 as Amended Approved 20 Yeas, 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Motion to Approve #136-19 as Amended Approved 20 Yeas, 3 Absent (Councilors Gentile, Kalis & Norton), 1 Recused (Councilor Grossman)

Clerk's Note: .

The City Council voted without discussion 20 Yeas, 4 Absent (Councilors Baker, Gentile, Kalis & Norton) to Accept the Committee Recommendations on the following items:

Referred to Zoning and Planning Committee

Monday, August 26, 2019

#275-19

Appointment of Carol Todreas to the Urban Design Commission

HER HONOR THE MAYOR appointing CAROL TODREAS, 89 Windsor Road, Waban, as a member of the URBAN DESIGN COMMISSION for a term to expire August 15, 2022.

Zoning & Planning Committee Approved 5-0 (Brousal Glaser, Baker, Kalis not Voting)

#276-19

Appointment of Robert Linsky to the Urban Design Commission

HER HONOR THE MAYOR appointing ROBERT LINSKY, 99 Walnut Hill Road, Newton Highlands, as a member of the URBAN DESIGN COMMISSION for a term to expire August 15, 2022.

Zoning & Planning Committee Approved 5-0 (Brousal Glaser, Baker, Kalis not Voting)**Public Hearings were assigned for the following items:*****Public Hearing Reassigned for September 24, 2019***

#262-19(2)

Petition to allow more than one garage at 333 Otis Street

NATHANIEL K AND LAURA FOOTE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #63-99 to construct a 329 sq. ft. one-car attached garage where a three-car garage exists, creating private garage space greater than 700 sq. ft., more than one garage, a private garage for more than three vehicles and exceeding the allowable FAR at 333 Otis Street, Ward 3, West Newton, on land known as Section 32 Block 03 Lot 13, containing approximately 24,547 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.9, 3.4.2.B.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Public Hearing Reassigned for September 24, 2019

#426-18(2)

Special Permit to allow mixed use development

NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, LLC, NORTHLAND OAK STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a mixed-use development greater than 20,000 sq. ft. with building heights of up to 96' and up to eight stories, to allow a development with an FAR of up to 2.0, consisting of 800 residential units, with ground floor residential units, containing restaurants with more than 50 seats, for-profit schools and educational uses, stand-alone ATMs, drive-in businesses, open air businesses, hotels, accessory multi-level parking facilities, non-accessory single-level parking facilities, non-accessory multi-level parking facilities, places of amusement, radio or TV broadcasting studios, and lab and research facilities, to allow a reduction in the overall parking requirement, to allow tandem spaces, to allow valet spaces, to waive dimensional requirements for parking stalls, to allow assigned spaces, to waive end stall maneuvering requirements, to allow driveway entrances and exits in excess of 25', to waive perimeter landscaping requirements, to waive interior landscaping and planting area requirements, to waive lighting requirements for parking lots, to waive tree requirements, to waive bumper overhang requirements, to waive 1-foot candle lighting requirements, to waive general lighting, surfacing and maintenance requirements, to waive off-street loading facilities requirements, to allow the extension of a nonconforming front setback, loading docks and nonconforming retaining wall to the extent necessary and to waive sign requirements relative to number, size, location or design, to waive the number of signs allowed at all properties known as 0 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), Newton Upper Falls, Ward 5, on 22.6 acres of land in a proposed BU4 district. Ref: Sec. 7.3.3, 7.4, 7.8.2.C, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 4.4.1, 5.1.3.E, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.D.2, 5.1.8.E.1, 5.1.9.A, 5.1.9.B, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10, 5.1.10.A.1, 5.1.12, 5.1.13, 5.2,

5.2.13, 5.4.2 and of the City of Newton Rev Zoning Ord, 2017.

Public Hearing assigned for September 18, 2019

#305-19 National Grid petition for grant of location in Voss Terrace

NATIONAL GRID petition for a grant of location to install and maintain 50' +/- of 6" gas main in Voss Terrace from the existing 6" gas main in front of house #40 southwesterly to the end of main in front of house #50 to provide new service to #50 Voss Terrace.

Public Hearing assigned for September 18, 2019

#306-19 National Grid petition for a grant of location in Dearborn Street

NATIONAL GRID petition for a grant of location to install and maintain 85' +/- of 4" gas main in Dearborn St from the existing 4" gas main in front of house #56 southwesterly to the end of main in front of house #64 in order to provide service #64 Dearborn Street.

Public Hearing assigned for September 18, 2019

#307-19 Eversource petition for a grant of location in Woodward Street

EVERSOURCE petitioning for a grant of location to install and maintain 693'+ of conduit in WOODWARD STREET from the existing manhole #MH21030 in front of #991 Boylston Street in a northwesterly direction to a new proposed manhole in front of 38 Woodward Street, continuing on Woodward Street to a second proposed manhole at the intersection of Lincoln Street and Woodward Street thence turning and installing 182'+ of conduit on LINCOLN STREET in a northeasterly direction to utility pole #257/19 in front of #163 Lincoln Street. This work is necessary to perform system upgrades.

Public Hearing assigned for September 18, 2019

#308-19 Request for a main drain extension at 12 Ferncroft Road

PETER AND PRUDENCE ROAF, 12 Ferncroft Road, Waban, petitioning for a main drain extension in FERNCROFT ROAD a distance of 90'+ from the property at #12 Ferncroft Rd in a northerly direction to the existing drain manhole in front of #20 Ferncroft Rd.

PETITIONER TO PAY ENTIRE COST