



Public Facilities Committee Report

City of Newton In City Council

Wednesday, February 9, 2022

Present: Councilors Leary (Chair), Norton, Kalis, Danberg, Laredo, Kelley, and Crossley

Also Present: Councilors Krintzman, Greenberg, Wright, Downs and Malakie

Absent: Councilor Gentile

City Staff: City Engineer Lou Taverna and Co-Director of Sustainability Ann Berwick

#138-22 Eversource petition for Grant of Location in Old England Road

EVERSOURCE ENERGY petitioning for a grant of location to install ~~254~~ 244'± of conduit in an easterly direction from new pole #329/7 to the property at #45 Old England Road.

(Ward 7)

Action: Public Facilities Approved as Amended Subject to Second Call 6-0 (Councilor Kalis not voting)

Note: Joanne Callender, Eversource Representative, presented the request for a grant of location in Old England Road. It was noted that the request has been amended to 244 ft of conduit. Ms. Callender explained that this is to provide underground service to the customer at #45 Old England Road. She further explained that last year the plan was to relocate pole 329/5 but the decision was made not to relocate this pole and to adjust pole 329/7 to accommodate the underground service. The corrected plan is dated August 2021.

The Public Hearing was opened.

Bryan Gary, 81 Old Orchard Road, expressed his concerns for the project that deal with moving pole 329/5 which has been corrected through the attached plan. Mr. Gary also noted that the guy wire should be screened, and the road should be returned to the condition it was at before the project began.

Jon Renn, Contractor for the project, explained that this began in November 2020 and the homeowner at #45 Old England Road has been unable to receive a certificate of occupancy due to the ongoing work. He further explained that they have confirmed they will not move pole 329/5. Mr. Renn explained that they have tried to reach out to every abutter and have received support for the project.

Anthony Trase, 34 Old England Road, Sean Wilder, 100 Old England Road and Justin Sullivan, 44 Old England Road expressed their support for the project. It was noted that the other abutters on Old England Road have also expressed their support to move this project along. Additionally, a resident noted that in a historic district it is preferable to underground utilities.

The public hearing was closed.

Councilors made the following comment:

The Committee discussed voting the item subject to second call so that the contractor can discuss outstanding issue with abutters.

Councilor Laredo motioned to amend item #138-22 to 244 ft of conduit which passed 6-0 with Councilor Kalis not voting.

Councilor Laredo motioned to approve as amended subject to second call which passed 6-0 with Councilor Kalis not voting.

#142-22 Requesting an amendment to Chapter 26, Section 47

HER HONOR THE MAYOR requesting an amendment to Chapter 26, Section 47 of the City of Newton Revised Ordinances to allow the option to use granite dive stones at existing driveways.

Action: **Public Facilities Approved 6-0 (Councilor Kalis not voting)**

Note: Lou Taverna, City Engineer presented the request for an amendment to Chapter 26, Section 47 of the City of Newton Revised Ordinances to allow the option to use granite dive stones at existing driveways. Mr. Taverna explained that the City ordinance specifies granite corner blocks only at driveway entrances. This request is to amend the ordinance to allow the installation of dive stones at driveway entrances where applicable at the discretion of the Commissioner of Public Works. The dive stones have been used successfully during the Walnut Street rehabilitation project. The dive stones also help with installing curb betterments when there are concrete driveways, and it is better for snow removal. Mr. Taverna provided the attached images showing corner blocks, blunt ends and dive stones. He noted that the City Council did approve the use of dive stones on Walnut Street.

Councilor Crossley motioned to approve which passed 6-0 with Councilor Kalis not voting.

Referred to Public Facilities and Finance Committees

#151-22 Appropriate \$1,146,500 from the Sewer Enterprise Fund-Undesignated Fund Balance
HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one million one hundred forty-six thousand five hundred dollars (\$1,146,500) from the Sewer Enterprise Fund-Undesignated Fund Balance

Account #6100-3599 to fund the Infiltration & Inflow (I&I) CIP Project 8 Construction Services.

Action: **Public Facilities Approved 6-0 (Councilor Kalis not voting)**

Note: Lou Taverna, City Engineer presented the request to appropriate and expend \$1,146,500 from the Sewer Enterprise Fund-Undesignated Fund Balance to fund the Infiltration & Inflow (I&I) CIP Project 8.

Councilors asked the following question:

Q: How many miles of pipe are being worked on?

A: Mr. Taverna explained that he can provide the exact number to the committee after the meeting. He noted that this is significant area from the Charles River towards the Chestnut Hill/Thompsonville/Route 9 area.

Councilors thanked the department for their work on these projects.

Councilor Crossley motioned to approve which passed 6-0 with Councilor Kalis not voting.

#140-22 Request for a Home Rule Petition

CHAIR OF THE PUBLIC FACILITIES COMMITTEE requesting a Home Rule Petition for special legislation to allow the City of Newton to enact an ordinance that requires new and substantially remodeled or rehabilitated residential and small non-residential buildings to use electricity instead of fossil fuels for heating and cooling systems, dryers and for domestic hot water, electricity or thermal solar.

Action: **Public Facilities Held 5-2-0 (Councilor Kalis and Norton opposed)**

Note: Chair Leary presented the request for a Home Rule Petition for special legislation to allow the City of Newton to enact an ordinance that requires new and substantially remodeled or rehabilitated residential and small non-residential buildings to use electricity instead of fossil fuels for heating and cooling systems, dryers and for domestic hot water, electricity or thermal solar. She was joined by the Co-Director of Sustainability Ann Berwick and a number of councilors who have worked on the Home Rule Petition through the Electrification Working Group.

The draft Home Rule Petition is attached to this report.

It was noted that the purpose of a home rule petition is to have the State authorize a municipality to take an action that it currently does not have the power to do so. With this petition, Newton is asking for the authority to enact local legislation in an area that is solely governed by the State. Newton would be the 6th community to ask for this authority. If the City is granted this authority a new ordinance is not automatically created.

Last term, the Public Facilities Committee voted to recommend approval of this petition to the full City Council, but it was sent back to the committee so that concerns can be dealt with regarding large building owners, particularly Newton-Wellesley Hospital and laboratory uses. The committee has spent time reviewing the efforts of other communities, including Brookline.

If the Home Rule petition is granted by the State, then the City will propose the ordinance, hold community input sessions, conduct case studies to better understand impacts and conduct a public hearing. This process would need to go through the Zoning and Planning Committee.

Ms. Berwick explained that Representative Kay Khan filed a bill which would require all new construction and substantial renovations be electric. This bill would eliminate the need for a Home Rule petition. She further explained that there are other pending bills in the legislature but these are opt in petitions.

A common question that has been asked regarding the draft home rule petition is why it only applies to residential and small non-residential buildings. This is because the City currently has no other means of regulating energy use/ emissions of buildings under 20,000 sq ft. The buildings that are larger than 20,000 sq ft come to the Council through its special permit process and through the involvement of Green Newton Building Standards committee they have achieved tremendous success improving building standards and clean energy for new construction. The developers that are seeking special permits have agreed to and recognize the value in all electric high-performance construction. The Electrification Working Group has learned about hospital plans for a rebuild of their campus and unique power requirements for hospitals and laboratories. There is also Building Energy Reporting Disclosure Ordinance (BERDO) which is a program that has been adopted by Boston and Cambridge. Newton is looking to also adopt this program.

Ms. Berwick explained the appeals process and the exemptions that will be allowed. In the Home Rule petition, it has the Commissioner of Inspectional Services making the decisions. She explained that this may not be the best model for this process and the working group will continue to look at that aspect. The exemptions include free-standing outdoor cooking and heating appliances, Newton Wellesley Hospital and Mass General Brigham. Ms. Berwick explained that there should be an amendment made to the petition so that the exemption only pertains to hospital buildings and not office buildings for the hospital.

Councilors asked the following questions:

Q: Does the City need to have a decision on the appeal process and the exemption on cooking before submitting the Home Rule Petition?

A: Ms. Berwick explained that these could be left vague but people are looking to see what an ordinance would look like. Newton has been following the lead of Brookline and other communities when it comes to the exemption for cooking and there are thoughts that we could add cooking back in for the Home Rule petition then still leave it out of the ordinance.

Q: Does the gross building floor area threshold just include finished living space?

A: It was noted that the definition is in the code.

Q: Why was the decision made now to exempt larger buildings instead of keeping this portion broader in the Home Rule petition?

A: Ms. Berwick explained that they have discussed this with larger entities and they preferred the performance standard instead of an electrification mandate. They rather be able to reach a goal using their own methods and this is why BERDO has been enacted in other communities. For small businesses it would be easier for the City to give them a mandate so they understand how to reach these climate action goals.

Councilors made the following comments:

It was noted that the only difference from the last time the committee discussed this is the exemption for hospitals and large buildings, which is the right thing to do. The Committee should approve this item at this meeting so that it can be approved by the City Council and sent to the Legislature.

The Chair noted that she would like to have one more meeting on the Home Rule petition so that the committee can hear from major stakeholders.

The Committee should add cooking back to the Home Rule petition due to the health risk gas stoves cause.

A Councilor noted that they believe that local control in this area will be better because of the conversations that can happen with local businesses, residents and commissions during the process of creating an ordinance.

The Chair then took public comment.

Philip Plotell, Chair of the Economic Development Commission explained that they have discussed this during several of their meetings. They spoke to major stake holders including representatives from Newton Wellesley Hospital. After these meetings, the EDC did compose a letter to the Mayor and the City Council which dealt with their support of the City moving away from fossil-fuels. The goal of the EDC is to make sure whatever is enacted is successful and operational but will not negatively impacts residents, businesses, and hospitals. There may also be assisted living facilities in Newton that may have issues meeting these regulations and this should be discussed with them. He also noted that the EDC believes that a state solution would be preferable to a Newton only solution so that there are consistencies for business owners.

It was noted that during the ordinance process there will be discussion around waivers so this is not creating any undue hardships for small businesses and residents.

Greg Reibman, President of the Charles River Regional Chamber expressed that he is grateful for being able to be a part of this conversation. He explained that he believes it would be better to deal with this on a state wide basis and noted that the Governor has discussed amendments to the stretch code that could deal with these types of issues. Mr. Reibman expressed his concern with exempting larger buildings and explained that he would like to work with the Council on the implementation of BERDO. The electric grid is insufficient now which is concerning with this Home Rule petition.

Regarding the previous comment, the stretch code would not necessarily reach all of the issues that this petition will help because it only deals with new construction. A councilor also agreed that working with stakeholders on BERDO is important. Ms. Berwick explained that there are a number of groups that are dealing with the issue of the electric grid including the Department of Public Utilities.

Halina Brown, Chair of the Citizen's Commission on Energy also noted that this is just the Home Rule Petition and when the City does come to the point to making the ordinance the concerns that have been expressed should be considered. She also noted the importance of moving forward.

Philip Hanser, member of the Citizen's Commission on Energy asked a question regarding the adequacy of the electric grid. The cost of renewables have decreased over time and there has been a failure to anticipate how fast the use of renewables would grow.

Peter Barrier, Newton resident expressed his concern with taking larger buildings out of the Home Rule petition with the understanding that there will be a number of issues that will need to be worked out.

Larry Epstein, Newton resident expressed his concern on depending on solar and wind power and urged the committee to look towards nuclear energy instead of electrification. He also noted that the grid is fueled by fossil fuels.

Ms. Berwick explained that currently the grid is fueled about half by non-emitting sources. She also expressed that off shore wind has a capacity factor off the coast of Massachusetts at approximately 50%. The New England grid also does use nuclear and hydro power. Additionally, Ms. Berwick explained that she is confident that the grid will be powered by all renewable resources in the future, including nuclear.

Cindy Callaway, member of Mothers of Out Front expressed the importance of moving forward to getting off fossil fuels.

Peter Sachs, local architect noted that he does have clients that may only be able to afford a hybrid system and he believes that the Home Rule petition should not require a completely electric home or business. He believes this will help individuals still contribute to these goals while being able to afford their projects.

The Chair invited the public to submit questions and comments after the conclusion of the meeting. The intention is to bring this back to the committee and take a vote on the item at that point.

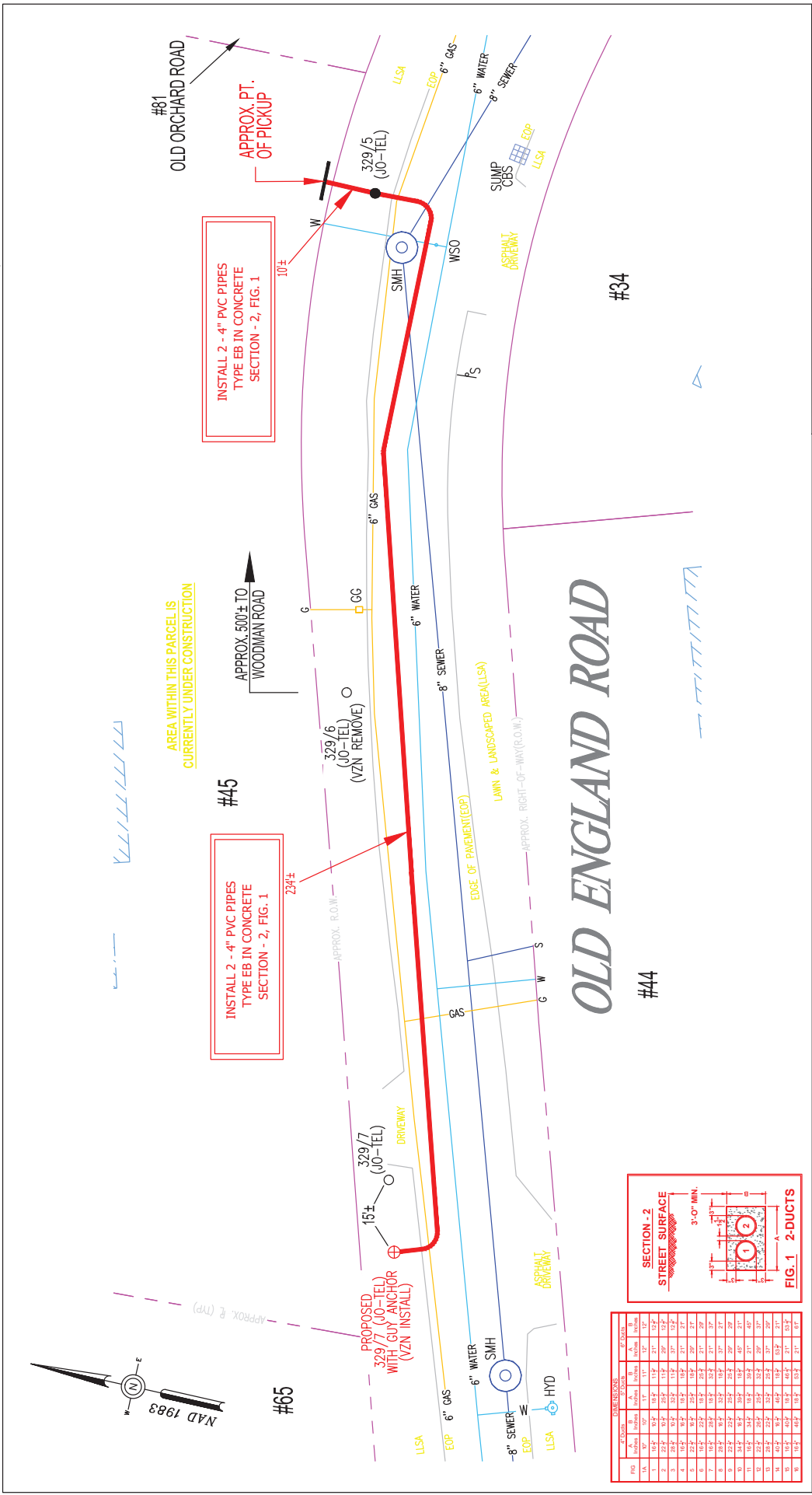
Chair Laredo motioned to hold which passed 5-2-0 with Councilors Norton and Kalis opposing.

The Committee adjourned at 9:13 p.m.

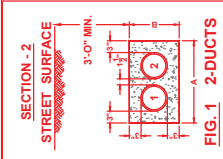
Respectfully Submitted,

Alison Leary, Chair

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P.O.B.	ELEVATIONS				P.O.D.
	10' DIA	12" DIA	18" DIA	24" DIA	
1	95.2	95.2	95.2	95.2	95.2
2	95.2	95.2	95.2	95.2	95.2
3	95.2	95.2	95.2	95.2	95.2
4	95.2	95.2	95.2	95.2	95.2
5	95.2	95.2	95.2	95.2	95.2
6	95.2	95.2	95.2	95.2	95.2
7	95.2	95.2	95.2	95.2	95.2
8	95.2	95.2	95.2	95.2	95.2
9	95.2	95.2	95.2	95.2	95.2
10	95.2	95.2	95.2	95.2	95.2
11	95.2	95.2	95.2	95.2	95.2
12	95.2	95.2	95.2	95.2	95.2
13	95.2	95.2	95.2	95.2	95.2
14	95.2	95.2	95.2	95.2	95.2
15	95.2	95.2	95.2	95.2	95.2
16	95.2	95.2	95.2	95.2	95.2
17	95.2	95.2	95.2	95.2	95.2
18	95.2	95.2	95.2	95.2	95.2
19	95.2	95.2	95.2	95.2	95.2
20	95.2	95.2	95.2	95.2	95.2
21	95.2	95.2	95.2	95.2	95.2
22	95.2	95.2	95.2	95.2	95.2
23	95.2	95.2	95.2	95.2	95.2
24	95.2	95.2	95.2	95.2	95.2
25	95.2	95.2	95.2	95.2	95.2
26	95.2	95.2	95.2	95.2	95.2
27	95.2	95.2	95.2	95.2	95.2
28	95.2	95.2	95.2	95.2	95.2
29	95.2	95.2	95.2	95.2	95.2
30	95.2	95.2	95.2	95.2	95.2
31	95.2	95.2	95.2	95.2	95.2
32	95.2	95.2	95.2	95.2	95.2
33	95.2	95.2	95.2	95.2	95.2
34	95.2	95.2	95.2	95.2	95.2
35	95.2	95.2	95.2	95.2	95.2
36	95.2	95.2	95.2	95.2	95.2
37	95.2	95.2	95.2	95.2	95.2
38	95.2	95.2	95.2	95.2	95.2
39	95.2	95.2	95.2	95.2	95.2
40	95.2	95.2	95.2	95.2	95.2



Sheet #	43-20
Ward #	-
Work Order #	2387817
Surveyed by:	JF/GC
Research by:	SC
Plotted by:	SC
Proposed Structures:	SC/TL
Approved:	T. THEBAULT
Scale	1"=20'
Date	SEPTEMBER 15, 2020
Sheet	1 of 1
Revised:	AUGUST 24, 2021

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MASS. LAW
REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES BEFORE DIGGING BY ANYONE. CALL DIGSAFE 1-888-341-7233

NOTES:
THE LOCATION OF UNDERGROUND STRUCTURES ARE FROM PLANS AND RECORDS AND ARE APPROXIMATE ONLY. IN ADDITION, SURFACE FEATURES OF UTILITIES AND SERVICES LOCATED BY FIELD SURVEY ARE TIED TO THEIR NEAREST AVAILABLE TO THE UNDERGROUND EXISTENCE. ANY UNDERGROUND STRUCTURES NOT EVIDENT WERE REQUESTED, YET UNAVAILABLE AT THIS PRESENT TIME.

138-22













Draft Proposed Home Rule Petition for Discussion

Date: February 1, 2022

CHAPTER _____ AN ACT RELATIVE TO THE ELECTRIFICATION OF NEW AND
SUBSTANTIALLY REMODELED OR REHABILITATED
BUILDINGS IN THE CITY OF NEWTON

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the State Building Code; the Gas Code; M.G.L c. 142, sec. 13; M.G.L. c. 164, and any other general or special law to the contrary, the City of Newton may by ordinance require new and substantially remodeled or rehabilitated residential and small non-residential buildings to use electricity instead of fossil fuels for heating and cooling systems and dryers and, for domestic hot water, by electricity or thermal solar.

SECTION 2. As used in this chapter, the following words shall have the following meaning unless the context clearly indicates a different meaning:

“Residential buildings” means buildings that include one or more dwelling units.

“Small non-residential buildings” means buildings the floor area of which is equal to or less than 20,000 square feet, and any portion of which is used for commercial, retail, office, professional, educational, or other non-residential purpose.

“Substantially remodeled or rehabilitated” means a renovation that affects 50% or more of the building gross floor area, excluding parking. In the case of a building that is both residential and non-residential, “substantially remodeled or rehabilitated” means a renovation that affects 50% or more of the gross floor area of the non-residential or residential space.

SECTION 3. An ordinance adopted under this Act may require new and substantially remodeled or rehabilitated residential and small non-residential buildings to use electricity instead of fossil fuels for heating and cooling systems, dryers, and hot water appliances and, for hot water, by electricity or thermal solar.

SECTION 4. The City of Newton may require that building permit applications for new and substantially remodeled or rehabilitated residential and small non-residential buildings identify the heating and cooling systems, dryers, and hot water appliances that will be used in the building.

SECTION 5. The City of Newton may withhold the issuance of a building permit for a new or substantially remodeled or rehabilitated residential and small non-residential building that does

not use electricity instead of fossil fuels for heating and cooling systems, dryers, and hot water appliances and, for hot water, by electricity or thermal solar.

SECTION 6. The Commissioner of Inspectional Services may grant a waiver from the provisions of the Ordinance in the event that compliance makes a project impractical to implement or imposes extraordinary challenges. Waiver requests shall be supported by a detailed explanation of the justification for such request, and by a proposed Alternative Compliance Pathway. Any proposed Alternative Compliance Pathway shall limit greenhouse gas emissions to levels consistent with declining statewide greenhouse gas emissions limits specified in “An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy.”

Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project for which compliance is infeasible, impractical to implement, or imposes extraordinary challenges, rather than for entire projects.

The Commissioner of Inspectional Services shall issue guidance on the granting of waivers and the imposition of conditions.

[An alternative is to create an appeals board, along the lines that Brookline proposed. I can supply their approach if that alternative is of interest.]

SECTION 7. The requirements of this Ordinance do not apply to any of the following:

- A. [Indoor residential and commercial cooking appliances—to be discussed]
- B. Freestanding outdoor cooking appliances that are not connected to the building natural gas or propane infrastructure.
- C. Freestanding outdoor heating appliances that are not connected to the building natural gas or propane infrastructure.
- D. Newton Wellesley Hospital/Mass General Brigham buildings located in the City of Newton.
- E. Emergency, back-up, or standby power production.
- F. Appliances to produce potable or domestic hot water from centralized hot water systems in buildings with a gross floor area of at least 10,000 square feet, provided that the architect, engineer, or general contractor on the project certifies by affidavit that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation costs, compared to a conventional fossil fuel hot water system.

SECTION 8. This act shall take effect upon its passage.