

**CITY OF NEWTON**

**IN BOARD OF ALDERMEN**

**BOARD ACTIONS**

Tuesday, February 22, 2011

Present: Ald. Albright, Baker, Blazar, Ciccone, Crossley, Danberg, Fischman, Freedman, Fuller, Gentile, Harney, Hess-Mahan, Johnson, Lappin, Linsky, Merrill, Rice, Salvucci, Sangiolo, Schnipper, Shapiro, Yates, and Lennon

Absent: Ald. Swiston

**THE BOARD OF ALDERMEN DISCUSSED AND VOTED THE FOLLOWING ITEMS ON SECOND CALL:**

#142-09(6)(A) INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT requesting to amend Chapter 30, §30-15(u) and TABLE 1 regarding Floor Area Ratio (FAR) to institute a new method of calculating maximum FAR for single and two family structures in residential districts based on a sliding scale tied to lot size and zoning district; to amend § 30-1 definitions of “gross floor area” and “floor area ratio” to include additional building features, accessory structures, and mass below first story; to amend § 30-1 to add definitions of “carport”, “porch,” “enclosed porch”, and “mass below first story”; to delete the reference to §30-15 Table 1 contained in §30-21(c) and replace it with a reference to §30-15(u); to determine a date, between six (6) and twelve (12) months from date of passage, that the above amendments will become effective. *(B, extending in §30-15(u) the expiration dates of paragraphs 1, 2, and 3 so they remain in effect until 10-15-11 was approved on 02/07/11. (90 days 04/08/11)*

**(A) ZONING & PLANNING APPROVED AS AMENDED 6-1-1 (Lappin opposed; Sangiolo abstaining)**

**ITEM POSTPONED ON FEBRUARY 7, 2011 TO FEBRUARY 22, 2011**

**(A) APPROVED 21 YEAS, 2 NAYS (Ald. Lappin & Sangiolo), 1 ABSENT (Ald. Swiston)**

**Clerk’s Notes:** Concern was raised that the new calculations proposed in this ordinance change would make many smaller lots conforming, but it would also make many larger SR1, SR2, and SR3 lots nonconforming. By-right expansion opportunities will be given to some home owners and taken away from others. It was stated that people move to Newton and make the biggest investment of their life in their house and that with this ordinance we are saying to some of them, sorry you can’t do what you want to do with your home. The sliding scale has been debated over and over and the members of the zoning group are still not sure of the numbers. The Board has asked for a zoning scoping group to be put together to help simplify zoning. This ordinance change however does not simplify things, it makes it more complicated. More properties will have to engage in the Special Permit process and homeowners will have to spend a lot of time and expense to bring an item through that process. There may also be unintended design

consequences as homes may be designed to meet the FAR requirements and things like porches, which will be counted if they are enclosed, may go away.

It was stated that the question is: does this ordinance improve what we have? The old ordinance allowed that if an individual kept 50% of the old structure the project would be exempt from FAR. As long as they met the 50% criteria there were no limits on what could be built and we saw the results of that. The working group did an extensive amount of research around the community on the Floor Area Ratio and the group decided to look at the lot size rather than apply a blanket to a district. Concern was raised that this would help to eliminate smaller homes, the research however showed that this would not be the case and this is better than what we have now. Any change will cause some adjustment problems, but we will be evaluating this to see if there are any problems. The ordinance does not take effect until October so there will be time to educate the public.

It was stated that the City's current FAR rules are unwieldy and torturous. As an example it was noted that currently detached garages do not count into the current FAR, but attached garages do, so builders put the garages two feet from the house and did not connect them. This has the same massing effect as an attached garage, but it did not count into the FAR.

The definitions proposed in this ordinance are clear and sensible and the rules make more sense. FAR is a useful tool to regulate egregious overbuilding on a site. It is not perfect - no law is perfect - but the task force did a great job of addressing the key concerns that the city has. These revisions to the ordinance provide a start to an easier, clearer process. The changes are supported by the Commissioner of Inspectional Services and a plan is being put in place to get information about the changes out to the public.

The Land Use Committee's process has changed and people need to know that. For some of the smaller projects people have represented themselves, they did not have to hire a lawyer. The process is no longer cumbersome, it is more efficient. Small projects are going through in a timely fashion.

Thanks were given to the working group who assisted in this two year process to get to an ordinance, the staff of the Planning Department and the Aldermen who have all worked on this. It was a well thought through process by a highly qualified group of people.

#235-10(B)&(C) ALD. BAKER & YATES on behalf of the Newton Historical Commission requesting updates to §22-50, **Demolition of historically significant buildings or structures.**, to minimize inconveniences to homeowners proposing modest changes and to enhance protections for historic structures proposed for demolition, with specific amendments designed to  
(B) establish a minimum period of delay for full demolition if the structure is found to be preferably preserved; and  
(C) extend the existing period of delay, as has occurred in other communities, for structures proposed for full demolition if the structure is found to be preferably preserved. [8/30/10 @3:19PM]

**ZONING & PLANNING SECTION (B) APPROVED 7-0-1 (Lennon abstaining)**

**ZONING & PLANNING SECTION (C) APPROVED 6-2 (Lennon and Lappin opposed)**

**MOTION TO RECOMMIT BOTH (B) & (C) TO THE ZONING AND PLANNING COMMITTEE APPROVED BY VOICE VOTE**

**Clerk's Notes:** The changes to the ordinance focus on Newton properties that are of historic value and gives the city more time to work out a solution with a home owner who wants to demolish their house. It was noted that less than 20 properties per year are affected by the demolition delay.

Concern was raised that there had not been a lot of publicity about this change and that there needed to be more time for the public to become familiar with it. Questions were raised by several Aldermen regarding the specifics of the changes especially the changes in section (C), including why is this change proposing some of the most stringent standards in the state? A brief discussion of the pros and cons of the proposed changes was undertaken. The Board then discussed postponing one or both of the items, but in the end approved by voice vote to recommit both (B) & (C) to the Zoning & Planning Committee.

**THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 23 YEAS, 0 NAYS, 1 ABSENT (Ald. Swiston) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEMS:**

**REFERRED TO LAND USE COMMITTEE**

Tuesday, February 15, 2011

#7-11 CHARLES RIVER COUNTRY CLUB, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND A NON CONFORMING USE to create a short game practice area for its members and guests in a currently unimproved portion of an existing golf course (no buildings or structures are involved) at 483 DEDHAM STREET, Ward 8, on land known as SBL 83, 36, 4, containing ≈6,446,022 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a) of the City of Newton Rev Ord, 2007, and special permit board order #261-96.

**LAND USE HEARING CONTINUED TO MARCH 15, 2011**

#23-11 NEW CINGULAR WIRELESS by AT&T MOBILITY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE for the addition of three (3) wireless communication antennas to an existing monopole at 30-36 BORDER STREET, Ward 3, West Newton on land known as SBL 33, 15, 24, containing ≈14,458 sq. ft. of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-18(c), 30-18(e)(8) of the City of Newton Rev Zoning Ord, 2007, special permits #209-67 and #337-05.

**LAND USE HEARING CLOSED; APPROVED 8-0**

**REFERRED TO ZONING AND PLANNING COMMITTEE**

Monday, February 14, 2011

- #92-10(2) ZONING & PLANNING COMMITTEE proposing a RESOLUTION to His Honor the Mayor providing selection criteria guidance for membership on the *Planning & Development Board* so that the level of expertise in related areas or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its service to the City. [9-13-10@11:41AM]  
**ZONING & PLANNING APPROVED 8-0**
- #93-10(2) ZONING & PLANNING COMMITTEE proposing a RESOLUTION to His Honor the Mayor providing selection criteria guidance for membership on the *Zoning Board of Appeals* so that the level of expertise in related areas or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its service to the City. [9/13/10 @11:41AM]  
**ZONING & PLANNING APPROVED 8-0**
- #253-10 ALD. YATES proposing a RESOLUTION to the Conservation Commission and the Mayor's Advisory Committee on Renewable Energy requesting that they investigate the possibility of establishing a Brightfield Solar Energy Array on the Flowed Meadow site similar to the one in Brockton. [09/07/10 @ 8:31pm]  
**ZONING & PLANNING NO ACTION NECESSARY 8-0**
- #333-97(2) ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM]  
**ZONING & PLANNING NO ACTION NECESSARY 8-0**
- #142-09(4) INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT requesting discussion of findings of Floor Area Ratio Working Group and consideration of recommended revisions to Chapter 30 regarding FAR limits tied to lot sizes and definitions of "gross floor area", "carport", "mass below first story", "porch", "enclosed porch", and "floor area ratio" as well as phasing of ongoing changes. [05/11/10 @ 7:07 PM]  
**ZONING & PLANNING NO ACTION NECESSARY 8-0**

**REFERRED TO PROGRAMS AND SERVICES COMMITTEE**

Wednesday, February 9, 2011

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES**

#373-10(2) ALD. GENTILE, HARNEY, SANGIOLO requesting an amendment to §20-13 of the City of Newton Revised Ordinances to adjust the structure, as well as increase the amount of the fines associated with non-compliance of §20-13, Noise Control, to reflect the following: first violation: issuance of a warning; second violation: \$100 fine; third violation: \$200 fine; fourth violation: \$300 fine. [01-05-11 @10:00 PM]

**FINANCE APPROVED AS AMENDED 5-0 (Freedman not voting) on 02/14/11**

**PROGRAMS & SERVICES APPROVED 7-0 (Linsky not voting)**

**MOTION TO SUSPEND THE RULES TO ALLOW THE PROGRAMS & SERVICES COMMITTEE CHAIR TO POLL HER COMMITTEE IN ORDER TO SUBSTITUTE THE REPORT OF THE FINANCE COMMITTEE FOR THE PROGRAMS & SERVICES REPORT APPROVED BY VOICE VOTE.**

**PROGRAMS & SERVICES APPROVED 8-0 TO REPLACE THE REPORT OF THE PROGRAMS & SERVICES COMMITTEE WITH THE FINANCE COMMITTEE REPORT.**

**Clerk's Notes:** The Finance Committee approved a slightly revised draft of the ordinance which explicitly included an increase in the penalties from \$100 to \$300 in Section 20-13(j). The members of the Programs & Services Committee voted to substitute the report of the Finance Committee for their report.

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#360-09(3) PROGRAMS & SERVICES COMMITTEE requesting the creation of a revolving account for the purpose of managing the fees collected from the granting of off-leash dog licenses. [10/07/2010 @ 2:30pm]

**FINANCE APPROVED AS AMENDED 6-0 on 02/14/11**

**PROGRAMS & SERVICES APPROVED AS AMENDED 8-0**

**REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE**

Wednesday, February 9, 2011

#64-10 ALD. YATES, SHAPIRO, FULLER, JOHNSON, CICCONE, SWISTON AND HARNEY requesting the City Traffic Division, Tree Warden and Urban Tree Commission to review the Nahanton Woods property around its driveway and make recommendations to the Nahanton Woods Trust as to how to improve the visibility of the driveway to and from Nahanton Street. [02/17/10 @ 10:29 PM]  
**PUBLIC SAFETY NO ACTION NECESSARY 5-0, Harney not voting**

#39-11 PUBLIC SAFETY & TRANSPORTATION COMMITTEE recommending an amendment to Section 19-33(d) of the City of Newton Revised Ordinances of 2007 (role of the Board of Aldermen in appeals from Traffic Council) to allow the Board to take final action on Traffic Council appeals rather than return the item for a Traffic Council vote. [01/19/11 @ 2:28 PM]

**PUBLIC SAFETY APPROVED 6-0, SUBJECT TO 2<sup>ND</sup> CALL**

**MOTION TO SUSPEND THE RULES TO ALLOW THE COMMITTEE CHAIR TO POLL HIS COMMITTEE TO ACCEPT THE NEW DRAFT OF THE ORDINANCE AND REPORT ON FIRST CALL WAS APPROVED BY VOICE VOTE.**

**PUBLIC SAFETY APPROVED 7-0**

**Clerk's Note:** The Public Safety Committee approved this item on second call in committee as the ordinance draft needed to be updated to reflect their vote. The draft was received in the Aldermen's packets on Friday and the Chair of the Public Safety Committee asked for a suspension of the rules to poll his committee to accept the draft text.

**REFERRED TO PUBLIC FACILITIES COMMITTEE**

Wednesday, February 9, 2011

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEE**

#42-11 HIS HONOR THE MAYOR requesting a transfer of three hundred thousand dollars (\$300,000) from various departments' salary accounts to supplement the expenditures associated with the removal of snow and ice as follows:

	<u>Account Number</u>	<u>Department</u>	<u>Amount</u>
From:	0110301-511001	Executive .....	\$10,000
	0110501-511001	Purchasing .....	\$15,000
	0110601-511002	Assessing .....	\$15,000
	0110901-511001	Human Resources.....	\$35,000
	0111103-511001	Information Technology.....	\$40,000
	0111401-511001	Planning.....	\$25,000
	0140103-511002	DPW-Vehicle Maint.....	\$35,000
	0140104-511002	DPW – Street Maint .....	\$25,000
	0150101-511001	Health & Human Svcs Adm.....	\$50,000
	0160103-511001	Newton Free Library .....	\$50,000
To:	0140110-513001	Snow & Ice – Overtime.....	\$100,000
	0140110-5273	Snow & Ice – Rental Veh.....	\$100,000
	0140110-5532	Snow & Ice – Sand/Salt.....	\$100,000

[01/31/11 @ 5:04 PM]

**FINANCE APPROVED 5-0 (Linsky not voting) on 02/14/11**

**PUBLIC FACILITIES APPROVED 6-0 (Gentile not voting)**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEE**

#43-11 HIS HONOR THE MAYOR requesting that the budget for the Newton North High School construction project be amended by transferring from various miscellaneous line items and the Owners Contingency line item the sum of two million five hundred eight-three thousand six hundred ninety seven dollars and eleven cents (\$2,583,697.11) to the Construction Manager at Risk line item for the purpose of providing funding for the estimated cost of additional abatement work related to the demolition phase of the project as follows:

From: Reallocation of miscellaneous accounts .....\$583,697.11  
 Owners Contingency.....\$2,000,000.00

To: Construction Manager at Risk .....\$2,583,697.11

[02-03-11 @ 11:57 AM]

**FINANCE APPROVED 6-0 on 02/14/11**

**PUBLIC FACILITIES APPROVED 5-0 (Albright and Gentile not voting)**

**REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEE**

**REFERRED TO FINANCE COMMITTEE**

Monday, February 14, 2011

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEE**

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From: Reallocation of miscellaneous accounts .....\$583,697.11  
 Owners Contingency.....\$2,000,000.00

To: Construction Manager at Risk .....\$2,583,697.11

**PUBLIC FACILITIES APPROVED 5-0 (Gentile, Albright not voting 2/9/11)**

**FINANCE APPROVED 6-0**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEE**

#42-11 HIS HONOR THE MAYOR requesting a transfer of three hundred thousand dollars (\$300,000) from various departments' salary accounts to supplement the expenditures associated with the removal of snow and ice as follows:

	<u>Account Number</u>	<u>Department</u>	<u>Amount</u>
From:	0110301-511001	Executive .....	\$10,000
	0110501-511001	Purchasing .....	\$15,000
	0110601-511002	Assessing .....	\$15,000

	0110901-511001	Human Resources.....	\$35,000
	0111103-511001	Information Technology.....	\$40,000
	0111401-511001	Planning.....	\$25,000
	0140103-511002	DPW-Vehicle Maint.....	\$35,000
	0140104-511002	DPW – Street Maint .....	\$25,000
	0150101-511001	Health & Human Svcs Adm.....	\$50,000
	0160103-511001	Newton Free Library .....	\$50,000
To:	0140110-513001	Snow & Ice – Overtime.....	\$100,000
	0140110-5273	Snow & Ice – Rental Veh.....	\$100,000
	0140110-5532	Snow & Ice – Sand/Salt.....	\$100,000

[01/31/11 @ 5:04 PM]

**PUBLIC FACILITIES APPROVED 6-0 (Gentile not voting 02/09/11)**

**FINANCE APPROVED 5-0 (Linsky not voting)**

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES**

#373-10(2) ALD. GENTILE, HARNEY, SANGIOLO requesting an amendment to §20-13 of the City of Newton Revised Ordinances to adjust the structure, as well as increase the amount of the fines associated with non-compliance of §20-13, **Noise Control**, to reflect the following: first violation: issuance of a warning; second violation: \$100 fine; third violation: \$200 fine; fourth violation: \$300 fine. [01-05-11 @10:00 PM]

**PROG & SERV APPROVED 7-0 (Linsky not voting on 02/09/11)**

**FINANCE APPROVED AS AMENDED 5-0 (Freedman not voting)**

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES**

#360-09(3) PROGRAMS AND SERVICES COMMITTEE requesting the creation of a revolving account for the purpose of managing the fees collected from the granting of off-leash dog licenses. [10/07/2010 @ 2:30pm]

**PROG & SERV APPROVED AS AMENDED 8-0 on 02/09/11**

**FINANCE APPROVED AS AMENDED 6-0**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#125-09 THE POST AUDIT & OVERSIGHT COMMITTEE requesting creation of a public tree protection ordinance and amendment of the current tree ordinance as recommended in the Tree Preservation Ordinance Report. [04/17/09 @ 9:14 PM]

**PROG & SERV APPROVED 7-0 (Merrill not voting) on 10/6/10**

**FINANCE APPROVED 6-0**

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES**

#307-10 PROGRAMS AND SERVICES COMMITTEE proposing a RESOLUTION to the Interim Director of Health and Human Services to increase the tobacco seller's license fee. [10/25/210 @ 4:34pm]

**PROG & SERV NO ACTION NECESSARY 6-0 (Merrill not voting) on 01-19-10**

**FINANCE NO ACTION NECESSARY 6-0**



**REFERRED TO COMM. PRES., PUB FAC & FINANCE COMMITTEES**

- #147-08 COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$359,400, including \$2,000 for legal costs, be appropriated from the FY'08 Community Preservation Fund's historic resources and general reserves, for a project to rehabilitate and expand storage space for the research library and archives at the Newton History Museum, to preserve the existing collections, and enhance public access to the collections. [04-01-08 @ 4:10 PM]  
**COMMUNITY PRESERVATION APPROVED 6-0 on 4-29-08**  
**(A) DESIGN FUNDS ESTIMATE \$37,500.00 – BOA APPROVED**  
**(B) BALANCE OF PROJECT ESTIMATE \$321,900.00-PUBLIC FACILITIES VOTED NO ACTION NECESSARY ON PART B 8-0 on 05/05/10**  
**FINANCE NO ACTION NECESSARY ON PART B 6-0**

**THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 19 YEAS, 4 NAYS (Ald. Gentile, Lappin, Salvucci, Shapiro), 1 ABSENT (Ald. Swiston) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEM:**

- #196-09 ALD. MANSFIELD AND SANGIOLO requesting rescission of Sec. 19-99 (b), Speed humps of the Revised Ordinances of the City of Newton. [06/17/09 @ 11:24 PM]  
**PUBLIC SAFETY APPROVED 4-0-2 (Johnson and Shapiro abstaining) on 06/09/10**  
**PUBLIC FACILITIES APPROVED 4-2 (Gentile and Salvucci opposed)**

**THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 18 YEAS, 5 NAYS (Ald. Gentile, Lappin, Salvucci, Sangiolo, Shapiro), 1 ABSENT (Ald. Swiston) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEM:**

**REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEES**

- #196-09(2) PUBLIC SAFETY & TRANSPORTATION COMMITTEE requesting to broaden Sec. 19-99, Speed humps of the Revised Ordinances of the City of Newton to cover all vertical deflection: raised intersections, raised crosswalks and speed humps, regardless of dimension. [01/20/10]  
**PUBLIC SAFETY APPROVED 4-0-2 (Johnson and Shapiro abstaining) on 06/09/10**  
**PUBLIC FACILITIES APPROVED 4-2 (Gentile and Salvucci opposed)**  
**MOTION TO SUSPEND THE RULES TO ALLOW THE PUBLIC SAFETY COMMITTEE CHAIR TO POLL HIS COMMITTEE TO SUBSTITUTE THE REPORT OF THE PUBLIC FACILITIES COMMITTEE FOR THEIR REPORT APPROVED BY VOICE VOTE**  
**PUBLIC SAFETY APPROVED 7-0 TO SUBSITUTE THE REPORT OF THE PUBLIC FACILTIES COMMITTEE FOR THEIR REPORT.**

**Clerk's Notes:** Since the Public Safety Committees approval of this item in June of 2010, there have been some slight modifications to the ordinance. To make the reports of the two committees consistent, the Chair of Public Safety polled his committee to substitute the report of the Public Facilities Committee for the Public Safety Report.

**PUBLIC HEARINGS WERE ASSIGNED FOR THE FOLLOWING ITEMS:**

***Public Hearing Assigned for March 15, 2011:***

#46-11        122 SHORNECLIFFE ROAD LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two retaining walls greater than four feet in order to construct a new by-right garage below grade outside the front setback, (to replace an existing legally nonconforming garage located within the front setback) at 122 SHORNECLIFFE ROAD, Ward 7, Newton, on land known as SBL 72, 34, 2, containing ≈10,702 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

***Public Hearing Assigned for March 15, 2011:***

#47-11        CHARLES L. WEST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to bump out the kitchen into the side yard and extend a porch from the rear entrance to improve access for persons with disabilities, which would increase the Floor Area Ratio from .27 to .28; decrease the rear yard setback from 15.4' to 12.5' and increase the maximum lot coverage from 20.3% to 20.8% at 95 FOUNTAIN STREET, Ward 3. West Newton, on land known as SBL 32, 44, 5, containing ≈11,355 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

***Public Hearing Assigned for March 15, 2011:***

#48-11        DOUGLAS GENTILE/TEEGEE LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to legalize an existing garage repair shop at 441 WATERTOWN STREET, Ward 1, Nonantum on land known as SBL 14, 8, 7, containing ≈10,543 sf of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-11(g) of the City of Newton Rev Zoning Ord, 2007.

***Public Hearing Assigned for March 23, 2011:***

#214-10(4)    COMMISSIONER OF PUBLIC WORKS requesting abandonment of the 80' building setback line along Boylston Street (Route 9) located on the property at 200 – 230 Boylston Street (Chestnut Hill Square) established by Board Order #100483, dated December 3, 1951, as it conflicts with proposed building locations shown on plans related to Special Permit Board Order #214-10 dated 12/06/10. [12-10-10 @1:17 PM]

**THE BOARD OF ALDERMEN APPROVED BY VOICE VOTE THE ACCEPTANCE AND REFERRAL OF THE FOLLOWING LATE FILED ITEMS TO THE DOCKET:**

**REFERRED TO ZONING & PLANNING COMMITTEE**

#49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @8:44AM]

**REFERRED TO ZONING & PLANNING COMMITTEE**

#253-10(2) ZONING & PLANNING COMMITTEE supporting the establishment of a Brightfield Solar Energy Array, subject to neighborhood input, on the Flowed Meadow site similar to the one in Brockton. [02-15-2011 @10:01am]

**THE PRESIDENT OF THE BOARD CHANGED THE REFERRAL OF THE FOLLOWING ITEM FROM JUST PUBLIC FACILITIES TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#55-11 ALD. FULLER, CROSSLEY, ALBRIGHT, DANBERG, FREEDMAN, HESS-MAHAN recommending that Section 29-67A of the City of Newton Revised Ordinances 2007 regarding sewer clean-out fees be updated either to increase the fee from \$25 during normal hours (\$75 during overtime hours) to a fee more closely representing the full cost of service of cleaning a privately-owned building sewer lateral or, alternatively, eliminating the service. [02/14/11 @ 5:25 PM]

#39-11

(DRAFT)

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO.

February , 2011

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON  
AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Section 19-33 as follows:

Delete, after the word “may” in the first clause of subsection (d) of Section 19-33, the words “order the traffic council to”.

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved:

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

DRAFT FOR DISCUSSION PURPOSES:

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO.

February , 2011

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Section 20-13 **Noise Control**, as most recently amended by Ordinance Z-32, by:

- 1. Deleting, after the phrase “shall be fined in an amount not to exceed” contained in Section 20-13(j) *Penalties* the following language: “one hundred dollars (\$100.00) and inserting in its place the following language: “three hundred dollars (\$300.00).

BE IT FURTHER ENACTED that the Revised Ordinances of Newton 2007, as amended be and are hereby further amended with respect to both subsection (c) Department of Inspectional Services and subsection (d) Police Department of Section 20-21, *Enforcing persons and revised ordinances subject to civil fine*, by:

- 1. Deleting the following language:

“Section 20- 13 Noise Control  
 ( ) Any Offense . . . . . \$50.00”

and by:

- 2. Inserting in place thereof the following language:

“Section 20-13 Noise Control  
 ( ) First offense . . . . . Warning  
 in calendar year

- ( ) Second offense.....\$100.00  
in calendar year
- ( ) Third offense .....\$200.00  
in calendar year”
- ( ) Fourth or subsequent offense....\$300.00  
in calendar year

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved:

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

**CITY OF NEWTON**  
**IN BOARD OF ALDERMEN**  
**ORDINANCE NO.**

~~November~~January , 20101

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON AS FOLLOWS:**

**1. That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Chapter 19 as follows:**

**A. Insert, in section 19-1, the following new definition:**

**“Traffic calming measures: Physical road design elements intended to reduce vehicle speeds and improve driver attentiveness.”**

**AB. Insert in the catchline of section 19-29, after the word “petitions” the following language:**

“; determination of eligibility for hearing.

**BC. Number the existing paragraph of Section 19-29 as (a), and add the following two new paragraphs (b) and (c):**

“(b) The chairman of the traffic council shall refer all docketed petitions to the department of public works for a preliminary determination of eligibility for hearing in accordance with the threshold standards provided in subsection (c) below. Any petition which the department determines does not meet the threshold standards shall not be added to the traffic council docket and shall be ineligible for further consideration for at least one year. The petitioner and the board of aldermen shall be so notified in writing by the traffic council. Petitions meeting the threshold standards shall proceed to a hearing before the traffic council in accordance with the provisions of Section 19-31.

(c) Threshold standards for traffic council hearing eligibility.

(1) Petitions for stop signs, traffic signals, and all other regulatory devices shall meet the minimum standards set forth in the Manual on Uniform Traffic

Control Devices for Streets and Highways, latest edition, with amendments, as adopted by the Commonwealth of Massachusetts;

(2) Petitions for school zones, truck exclusions, and speed limits shall meet the minimum standards established by the Massachusetts Department of Transportation; and

(3) Petitions for traffic calming measures shall meet all of the following standards:

- i. traffic volume on the street is greater than 1,000 vehicles per day;
- ii. measured 85th percentile speeds are equal to or greater than 9 mph above the speed limit; and
- iii. for vertical deflections, street classification shall be minor collector or local street.”
- iv. for raised crossing(s), the minimum criteria established by the City crosswalk policy shall be met.

(4) The traffic council shall hear site-specific requests, even if the above thresholds for hearing eligibility are not met, under one of the following conditions:

- i. as directed by the board of aldermen via site plan approval, special permit condition, or other board ~~action~~ [order or resolution](#);
- ii. where a CDBG grant of other source of public funding has been formally allocated to fully or partially fund a site-specific traffic calming project.

**ED. Delete the provisions of section 19-99 in their entirety.**

**2. That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Section 26-51 as follows:**

**A. Add, after paragraph (a) the following new language:**

“(b) Projects that include the addition, relocation, or removal of vertical deflections in a public roadway surface constructed for the primary purpose of reducing vehicle speeds. Such devices include, but are not limited to: speed humps, raised crosswalks, and raised intersections.



Prior to approval of projects under a) and b), the Board of Aldermen shall review the associated Traffic Council action and its consistency with Board policies set forth in Section 19-33a; and”

**B. Renumber existing paragraph (b) to (c).**

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved:

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor