

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, NOVEMBER 23, 2009

Present: Ald. Yates (Chairman), Ald. Lappin, Danberg, Swiston, Baker, Linsky, and Ciccone; absent: Ald. Harney

City staff: Michael Kruse (Director of Planning & Development), Marie Lawlor (Assistant City Solicitor), John Lojek (Commissioner of Inspectional Services), Jennifer Molinsky (Principal Planner), David Norton (Zoning Enforcement Official), Linda Finucane (Chief Committee Clerk)

Appointment by His Honor the Mayor

#331-09 REVEREND HOWARD HAYWOOD, 69 Walker Street, Newtonville, appointed as a member of the PLANNING & DEVELOPMENT BOARD for a term to expire February 1, 2014 (60 days: 12/18/09).

ACTION: APPROVED 6-0 (Ciccone not voting)

NOTE: Reverend Haywood was present this evening. He is a lifelong resident of Newton and has recently retired from the ministry of the Myrtle Baptist Church. He has been active in the city, serving on boards and volunteering with various organizations to ensure continuing first-rate services in the city. He is retired from the MBTA, where he was responsible for implementing transportation expansion projects in different areas with difficult engineering requirements. This experience has given him first hand knowledge of the importance of citizen participation, communication, and cooperation. He wants to balance preservation of open space with increasing the tax base by means of development through beneficial mitigation. He was actively involved in the Arborpoint development at Woodland Station and in preliminary work on the potential Riverside redevelopment 8 years ago.

Alderman Danberg moved approval of Reverend Haywood's appointment, which carried 6-0.

Appointment by His Honor the Mayor

#378-09 MATTHEW R. CUDDY, 27 Laudholm Road, Newton, appointed to the ECONOMIC DEVELOPMENT COMMISSION for a term to expire December 1, 2012 (60 days: 1/15/10).

ACTION: APPROVED 6-0 (Ciccone not voting)

NOTE: Mr. Cuddy also joined the Committee. He has a background in transportation, urban redevelopment planning, and economic development including experience in the Main Streets program, of which Alderman Yates is an enthusiastic proponent. Currently, he is an independent consultant. He has worked pro bono with the Newton Housing Action Partnership Initiative. His education at the master and bachelor's level was in mechanical engineering while he has PhD in Planning. He explained how these fields fit together. Committee members told Mr. Cuddy that his background and experience might lead the city to recruit him for other boards or commissions. Alderman Linsky moved approval of Mr. Cuddy's appointment, which carried unanimously.

#322-08 Ald. BAKER, YATES, & COMMISSIONER LOJEK requesting discussion of possible amendments to the City of Newton Ordinances to assist in assuring that properties that appear abandoned or severely dilapidated can be appropriately maintained or restored.

ACTION: HELD 7-0

NOTE: This item was discussed initially on June 22, when Mr. Lojek produced a binder with a series of photographs of various abandoned houses throughout the City. So far, the Inspectional Services Department has documented 34 such properties in the City. There is little recourse for the City outside of using building code enforcement and criminal court. These properties not only blight the neighborhood but also increase the risk of fire, unlawful entry, and attraction of wildlife. After reviewing a preliminary draft ordinance, the Committee agreed that it wished the Law and Inspectional Services departments to continue working on the draft. On October 26, the Committee reviewed another draft ordinance, which included evidence of vacant property, a registration requirement for property proposed to be vacant for one year, registration fee, maintenance requirements, maintenance fees, the city's right to maintain the property (to be funded by the fees and/or billed to the owner), penalties, enforcement, and appeals.

This evening the Committee had before it a further refinement of the draft ordinance, which includes requirements for registration within 90 days of a property becoming vacant. The Commissioner of Inspectional Services could waive the annual \$100 registration fee upon a hardship determination. The registration list would be accessible to Inspectional Services and the Police and Fire Departments, but would not be subject to the public records law. Owners would be required to maintain vacant property relative to major systems, landscaping, sanitary, building, and fire codes (boarding windows would only be allowed temporarily). If the owner fails to maintain the property, the City could enter to perform maintenance, with costs billed to the owner. The City may also impose fines of \$300 per day for violating any portion of the proposed ordinance. The Law Department is researching whether the City can place a lien on the property if the owner does not pay.

Discussion centered on unintended consequences, i.e., the potential unfairness of imposing stricter maintenance standards on abandoned properties than on occupied properties and how to exempt the well-maintained properties of long-term vacationers from the registration requirement. Ms. Lawlor informed the Committee that there is a local option bill pending in the Senate. The bill contains a number of requirements similar to the draft ordinance, but currently includes a provision that requires a prominent posting on the property with the name and 24-hour contact phone number of the entity responsible for maintenance. The Committee felt such a requirement would be tantamount to inviting some of the problems it was trying to prevent. The Committee agreed with Alderman Lappin's motion to hold the item for the December 14 meeting with the expectation that changes, particularly to tightening the threshold for registration, will be made to address the concerns expressed this evening.

The Committee reviewed the items remaining on the agenda, voting No Action Necessary on nos. 103-09 through 371-01 and referring the rest to the 2010-2011 Board.

#103-09 ALD. MANSFIELD & PARKER proposing amendments to Chapter 30 to update criteria and regulations pertaining to development in Mixed Use Zoning Districts.

ACTION: NO ACTION NECESSARY 7-0

#303-07(2) ALD. YATES asking consideration of an amendment to the inclusionary zoning ordinance, 30-8(f), that if adopted by the Board of Aldermen will provide that fee payments be allocated in the first instance to the Planning & Department, while still preserving the ability of the Newton Housing Authority or others to apply for to use such funds.

ACTION: NO ACTION NECESSARY 7-0

#122-09 ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.

ACTION: NO ACTION NECESSARY 7-0

#291-95 ALD. PARKER, BALSER, LIPSITT, MANSFIELD, & SAMUELSON requesting that Sec. 30-24 of the City of Newton Rev. Ords., 1995, be amended to require all large commercial development(s) to make a cash payment to be used for affordable/low-income housing. Such payments to be calculated individually for each development on the basis of costs incurred by the city; demands on infrastructure and services; increased need for area affordable housing; and other impositions to the city and community that result from the construction of such projects.

ACTION: NO ACTION NECESSARY 7-0

#193-06 ALD. VANCE proposing an ordinance that would require the owner of any residential property who is not otherwise required to give written notice to abutters and others of proposed modifications of the owner's residential structure to provide such written notice prior to the filing by such owner of an application for the building permit to construct such proposed modifications.

ACTION: NO ACTION NECESSARY 7-0

#238-01 ALD. MANSFIELD & SAMUELSON proposing to amend Sec. 30-1 and 30-11(g)(5) to clarify the definition of and restrict the permissive use "drive-in food service establishment" to Limited Manufacturing Districts only.

ACTION; NO ACTION NECESSARY 6-1 (Danberg)

- #239-01 ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 to establish a definition of and to specify appropriate zoning districts in which to conduct food catering businesses.
ACTION: NO ACTION NECESSARY 7-0
- # 86-02 ALD. MANSFIELD proposing to amend Secs. 30-11(a)(9) and 30-11(d)(9) to require a special permit for restaurants having not more than 50 seats that are within 300 feet of a Residence District.
ACTION: NO ACTION NECESSARY 7-0
- #59-03 ALD. SANGIOLO proposing amendments to Chapter 30-19 Section (j), *Lighting, Surfacing, and Maintenance of Parking Facilities*.
ACTION: NO ACTION NECESSARY 7-0
- #371-01 ALD. PARKER, YATES, SANGIOLO, BASHAM, LIPSITT proposing an ordinance to require an appropriate review and approval process to control drainage and other environmental impacts in cases of major excavation or other topographic changes.
ACTION: NO ACTION NECESSARY 7-0
- #164-09 ALD. HESS-MAHAN proposing the following amendments to the accessory apartment ordinances: (1) amend Sections 30-8(d)(1)a and 30-9(h)(1)a to explicitly allow the homeowner to live in the accessory apartment; (2) amend Section 30-9(h)(1) to allow accessory apartments in a single family residence located in Multi Residence 1 and Multi Residence 2 zoned districts; and (3) amend the provisions of Sections 30-8(d)(1)b and 30-9(h)(1)b to allow accessory apartments in residential buildings built 10 or more years.
ACTION: REFERRED TO 2010-2011 BOARD
- #474-08 ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12-09-08 @ 3:26 PM]
ACTION: REFERRED TO 2010-2011 BOARD
- #475-08 ALD. HESS-MAHAN, DANBERG, JOHNSON, SWISTON, & PARKER proposing that the City of Newton accept the provisions of GL chapter 43D, a local option that allows municipalities to provide an expedited permitting process and promote targeted economic development.
ACTION: REFERRED TO 2010-2011 BOARD

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.
ACTION: REFERRED TO 2010-2011 BOARD
- #111-07 ZONING TASK FORCE recommending amendments to 30-21(3)(c), referred to as the de minimis rule, by amending the existing language with provisions: (1) clarifying the applicability to and effect of the rule on (a) the minimum distance between buildings; and (b) all applicable dimensional controls; and (2) creating a new procedure for approving a de minimis extension of the nonconforming nature of a structure. [04-10-07 @4:17 PM]
ACTION: REFERRED TO 2010-2011 BOARD
- #207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants.
ACTION: REFERRED TO 2010-2011 BOARD
- #336-08 ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9-12-08 @10:31 AM]
ACTION: REFERRED TO 2010-2011 BOARD
- #150-08 ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4-15-08 @2:17PM]
ACTION: REFERRED TO 2010-2011 BOARD
- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
ACTION: REFERRED TO 2010-2011 BOARD
- #294-03 ALD. BAKER, YATES, JOHNSON AND MANSFIELD requesting analysis and discussion of possible remedies for demolition of modest housing and replacement with oversized structures out of character with the surrounding neighborhood, including examining the experience of other communities, including those out of state, who have worked to address this problem. **(Recommitted by Full Board 8-14-06)**
ACTION: REFERRED TO 2010-2011 BOARD

- #10-06 ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.
ACTION: REFERRED TO 2010-2011 BOARD
- #133-03 ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.
ACTION: REFERRED TO 2010-2011 BOARD
- #20-99 ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.
ACTION: REFERRED TO 2010-2011 BOARD
- #440-04 ALD. JOHNSON, BAKER & LAPPIN proposing a definition of "accessory structure" which will include mechanical equipment.
ACTION: REFERRED TO 2010-2011 BOARD
- #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.
ACTION: REFERRED TO 2010-2011 BOARD
- #237-01 ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to clarify the definitions of and specify the distinctions between restaurants, retail food establishments, fast food establishments, and food processing and preparation as allowed and permissive uses in Business, Manufacturing and Mixed Use Districts.
ACTION: REFERRED TO 2010-2011 BOARD
- # 7-99 ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
ACTION: REFERRED TO 2010-2011 BOARD
- #7-08 ALD. BURG proposing to amended Section 30-15, Table 1, Density & Dimensional Controls in Residential Districts and for Residential Uses to revise the minimum 'Lot Area per Unit' requirement in Mixed Use 1 and 2 Districts from 10,000 square feet to 1,200 square feet. [11-27-07 @4:48 PM]
ACTION: REFERRED TO 2010-2011 BOARD

Respectfully submitted,
Brian E. Yates, Chairman