

Newton Zoning Task Force

Half-story/Dormer Subcommittee Report*

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*Although I have tried to reach a consensus within this sub-committee I found myself in minority relative to other members. Nevertheless, many points in this report coincide with the opinions of several Zoning Task Force Committee members.

I. Statement of Purpose

The City of Newton undergoes an unprecedented growth. Not only it attracts developers who build massive structures here but also home owners who build bigger new houses and expand the existing ones. The city administration also needs the revenues from this new growth to maintain its daily operations, public buildings and infrastructure. The community is split between those who wish to improve their property values and stay in Newton and those who wish to sell their properties and leave. In either case, Newton real estate remains the main area of financial investment.

Yet, the current Zoning Ordinance is not prepared to control and accommodate this development. The ordinance is badly over-regulated, extremely complicated and contradictory within itself. Obviously, it needs to be drastically altered or at the very least, decisively simplified and streamlined. The latter goal was expressed by the Department of Inspectional Services and the Board of Aldermen who appointed this Task Force Committee.

II. Research

As a part of this task, the Half-Story/Dormer Subcommittee has worked on solving the problems of the “Half-story” and “Dormer” regulations that were defined by Commissioner of ISD John Lojek and the aldermanic Zoning and Planning Committee. During the past seven months of deliberations we observed the following facts:

1. The current Zoning Ordinance does not include the habitable area of the “Half-story” in the Gross Floor Area of a dwelling and, consequently, in the Floor Area Ratio. This defeats the very purpose of zoning regulations which is to control the scale and density of urban fabric.

2. The “Half-story” is not the half of the story but the two thirds of the story as defined by the ordinance. This regulation adds to the confusion and is difficult to find in the text of the ordinance.

3. The “Half-story” definition and the 30’ height limit were introduced to Newton Zoning Ordinance in April of 1997. Reportedly, the intent of this regulation was to reduce the visual impact of structures but, in fact, it did not reduce their volume and had no effect on the proliferation of so-called “monster houses”.

4. The current Zoning does not have any definitions of and regulations for dormers. In the absence of these rules the Department of Inspectional Services enforces the unwritten “policy” that limits the total length of dormers to 50% of the length of the wall below. Reportedly, the intent of this “policy” was to reduce the visual impact of aesthetically negative shed dormers but did not prevent building such dormers at the very edge of the roof, which was the main cause of complaints from the administration and citizens.

But the real reason for the abusive application of shed dormers is the definition of “half-story” that excludes a habitable area from FAR. Thus, in order to build the maximum habitable area, owners and developers are forced to use as large dormers as possible.

III. The immediate tasks

1. Definition of “half-story”

a) The current definition of “half-story” is a misnomer that allows the habitable area of the third story to comprise 2/3-rds of the floor area below without being counted in the Gross Floor Area and FAR.

b) The current definition of “half-story” discriminates against flat roofs and encourages the use of sloped roofs thus imposing “unreasonable and capricious regulations” based on an aesthetic predilection. *

Therefore, I propose to eliminate the “half-story” definition and allow maximum 3 full stories regardless of the roof shape, as it had been prior to 1997. Consequently, the current Floor Area Ratio for single residence zones must be increased in the following manner:

SR-3. Current FAR of 0.35 comprises 2 stories at 0.175 per story x 3 stories = 0.525

SR-2. Current FAR of 0.30 comprises 2 stories at 0.15 per story x 3 stories = 0.45

SR-1. Current FAR of 0.20 comprises 2 stories at 0.10 per story x 3 stories = 0.30

* The memorandum of March 5, 1997 from Newton Planning Department to the Board of Aldermen states: "If a new home is limited to 36 feet in height, yet three stories of living space are allowed, a flat roof might be required to fit the three story home under the restriction. By reducing the permitted stories to 2-1/2, a sloped roof is encouraged. A builder might still build a two-story home with a flat roof, but to achieve the maximum allowed footage, they would have to add a sloped roof to gain the extra half story."

2. Definition of dormer

a) The overwhelming majority of historical and contemporary houses in the city of Newton have sloping roofs with dormers built for the purpose of bringing natural light and ventilation into indoor spaces and increasing habitable areas. Yet, there is no definition of "dormer" in Newton Zoning Ordinance.

b) The so-called "fifty percent rule" was neither approved by the Board of Aldermen nor written in Newton Zoning Ordinance but is enforced by Inspectional Services. By demanding the maximum length of a dormer at 50% of the length of the wall below this regulation discriminates against the good practice of construction proven by the experience of generations. We collected several examples of such experience in Newton.*

Therefore, I propose the definition of "dormer" as follow:

"Dormer: a permanent superstructure projecting from a sloping roof and equipped with a window or a vent. The length of a dormer shall be less than the length of the wall below it by at least 3' at each end of the wall."**

*See illustrations

** The definition from "Dictionary of Architecture and Construction": "A structure projecting from a sloping roof usually housing a window or a ventilating louver."

III. Future considerations

1. Floor Area Ratio and Lot Sizes

All of the above immediate tasks are inextricably connected to the Floor Area Ratio and lot sizes. Many solutions or even clarifications of Newton Zoning cannot be made without changing the FAR in the process. For example, the better definition of "half-story" described above requires increase of FAR. Therefore, I suggest that in the future our task be expanded into studying the appropriate Floor Area Ratio. In this I concur to the opinion of the ZTF majority.

One of the most fundamental problems of the current zoning is the difference between lot sizes within the same residential zone. For example, in SR-3 zone a one-acre lot would allow a 15,000 sf house next to a 2,100 sf house on a 6,000 sf lot. Such neighbors are incompatible and present the very contrasting scale and character of Newton.

The current regulations for the minimum lot sizes are borrowed from the long gone past when the density of Newton's urban fabric and the intensity of its life were smaller than now. Contemporary lots are much smaller than those allowed by the zoning so if the owners wish to expand their homes they must seek special permits from the Board of Aldermen or the Zoning Board of Appeals.

If the minimum lot size of the zoning were reduced from the current 10,000 s. f. to 5,000 s. f. and the current "Single Residence" zones were re-named "One and Two Family Residence" the confusing "De minimis" rule could be eliminated in its entirety and many citizens who wish to improve their property values could do it by-right, without hiring a lawyer and spending years to drag through the special permit process. Also, that would take a big working load off the aldermen's schedule.

Therefore, I concur with the proposal by several architects of the Task Force to organize the FAR regulations not geographically as the current zoning does but in accordance with lot sizes. The lots may be arranged in several size groups and smaller lots would have progressively greater FAR irrespective of their geographical location. In addition to the benefit of a more consistent urban fabric this arrangement will result in mixing different income levels and reducing the tensions between existing socio-political boundaries.

2. Building height and open space

From 1949* to 1979 the building height limits for residential zones varied from 45 feet to 60 feet from the mean grade to the top of roof beams, and the number of stories - from 4 to 6, respectively. The building height and the number of stories for commercial zones had been limited by 100 feet and 10 stories. From 1949 to 1997 the ordinance has never prescribed the number of residential stories below three full stories.

Paradoxically, as time was going by and the demand for greater homes increased, the Newton zoning reduced the height and the number of stories. In 1997 the Board of Aldermen approved the concept and definition of "half-story" and reduced the number of stories from 3 to 2.5 and the height limit from 36 to 30 feet. Thus, the natural growth of the city was interrupted and the experience of many generations was ignored.

When observing positive examples of historical Newton housing stock we recorded up to 5 stories and 55-foot-high buildings which do not conform to the current zoning regulations. If the Board of Aldermen professes the preservation of the scale and character of Newton, it should allow to design and build at least as large houses as they were allowed a century ago.

Therefore, I propose the following:

Increase the maximum building height to 40 feet from the median grade to the top of the roof beams irrespectively of the style and shape of the roof, and the maximum number of floors to 3 for all one- and two-family residences. Establish the maximum building height at 45 feet and 4 stories for multi-family residential zones.**

The Board of Aldermen and the community expressed the desire to preserve and increase open space. The Newton Zoning consistently encourages the use of “Active Open Space”. Yet, the later reduction of building height and yard sizes resulted in lower buildings with greater footprints at the expense of the open space.

Therefore, I propose to increase yards and simultaneously increase the building height, the number of stories and the FAR.***

* The earliest Newton Zoning Ordinance that I found in the library archives.

** Exclusive of turrets, parapets, finials, chimneys and the necessary mechanical and electric equipment.

*** See illustrations and calculations.

3. The scale and character of Newton

The guiding sentiment of Newton Zoning Ordinance is “preservation of scale and character of Newton”. But the current urban fabric of Newton is disparate and transitory. For example, the scale of Newton Centre is much greater than that of Oak Hill but the latter undergoes a rapid reconstruction, so, its scale is getting greater and its character is changing dramatically before our very eyes.

Yet, even within the richest and most established parts of the city such as Commonwealth Avenue in Newton Centre the existing buildings vary greatly in both the scale and character. Grand old mansions that imitate historic architectural styles stand next to modest wooden houses of mediocre architecture. Many areas of the city don’t have a cohesive scale and character, and there is little worth of preserving. Some streets have old traditional triple-deckers next to one- and two-story ranches.*

Obviously, the preservation of any particular scale and character even within a single city block is unrealistic. Therefore, I suggest that we create a desired scale and character of Newton, instead of preserving it.

* See attached photographs

4. The mass of buildings and density

The intent of the zoning changes during the past decade was to reduce the “mass” of buildings and the density of Newton urban fabric. However, the unintended consequences of these changes turned to be exactly the opposite: the mass and density have increased while the open space, the quality of design and construction, and the quality of life were reduced. How did this happen?

The “mass” is defined by several dictionaries as “bulk”, “aggregate”, or “expanse”. The mass of a lower squat building of a certain gross floor area is equal to the mass of a taller and slimmer building of the same area. The former had been *perceived* as a smaller mass simply because it looked less tall but the resulting decrease of open space and the distances between buildings created *the higher density* of urban fabric while the mass remained largely intact.

Therefore, I propose that the Board of Aldermen return to the time tested experience of many generations that preferred greater yards and greater heights of Newton buildings.*

See illustrations*

5. “Policies” and regulations

Newton City Charter requires that all zoning regulations must be approved by the Board of Aldermen. Yet, we know at least two currently enforced regulations that have not been approved by the board. One is the so-called “fifty percent” of the dormer rule that was described above and the other is the maximum 400 s. f. addition to a building that triggers the drainage plan enforcement and is being enforced by Engineering Department.

During the past 5 years Newton Zoning Ordinance has been changed in average 6 times per year. I don’t know any municipality in the Commonwealth that changes its zoning ordinance so frequently. I respectfully suggest that this practice is stopped.

6. Design Review Board

In order to improve the quality of design and construction the city does not have to complicate the zoning with arbitrary regulations. Instead, it should establish an independent Design Review Board that would review the design of all private buildings in Newton similar to the existing Design Review Committee that oversees the design of public buildings. Unlike the latter, the Board's decisions should not require a further approval by the Board of Aldermen. This Board should consist of the most experienced design professionals and community representatives. In this I concur with the majority opinion of our sub-committee.

Respectfully submitted,

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