

**Referred to Zoning & Planning Committee**

**#37-20** **Amend ordinances by creating a temporary suspension on landmark designation COUNCILORS ALBRIGHT, AUCHINCLOSS, CROSSLEY, DOWNS, KELLEY, LIPOF, GREENBERG, KRINTZMAN, NOEL, LEARY, AND DANBERG** proposing an amendment to Chapter 22 of the Revised Ordinances of the City of Newton, 2017 to temporarily suspend nominations made by the Historical Commission and the City Council for landmark designations of any land, buildings and structures in the City of Newton in order to allow the City adequate time to review the landmark ordinance and consider what revisions are appropriate. The temporary suspension will prevent and suspend the processing, and approval of any property currently under consideration for landmark designation and will temporarily suspend future landmark designations made by the Historical Commission and the City Council. Landmark nominations made by the Mayor, Director of Planning and Development and the Commissioner of Inspectional Services shall not be affected. This temporary suspension shall end no later than December 31, 2020.

**Action:** **Zoning and Planning Held 7-0**

**Notes:** Mr. Heath addressed the Committee on this item.

He said that this item was docketed in the previous term. A working group was developed to address this issue but ultimately did not complete its work in time for the end of the term. After a brief description of the docket item, it was open for questions and discussion.

A committee member serving on the working group said that it will meet again soon to continue its work from the previous term. He said also that it was an unusual process to suspend an administrative structure already in place. He did not want to suspend any opportunity for historical designation as the mechanism has been sparingly used and did not want to prevent valid properties from being designated as historic. The committee member also said that he found it “anomalous” to take the City Council out of the process but to leave the Mayor and Planning Director in it.

Councilor Baker moved No Action Necessary on docket item #37-20, saying that he did not feel it is wise policy to implement this designation suspension.

A councilor emphasized Mr. Heath’s points, saying that new work on zoning redesign was suspended for several months as the Committee had felt the working group would be capable of completing its work in time for the end of the term, but other matters were prioritized. She added that historical designation was used sparingly until recently. The councilor thought it unwise to continue landmarking properties while this ordinance was under review.

A committee member said that the ordinance is functioning without the Massachusetts Historical Society (MHC) saying that it will no longer help Newton with its designations, and as well that the appeal process via the Metropolitan Area Planning Council (MAPC) will no longer be available.

The committee member said that considering these developments they would support the temporary moratorium on designations.

A councilor asked if properties could be designated historical without the property owner being notified. Mr. Heath and Ms. Caira answered no and explained that property owners are notified along with abutters and that the Planning Department is working to improve the process with mechanisms such as certified mail to confirm that the notice was received. The councilor felt that there needed to be more notice given than two weeks and emphasized their support for putting the item on hold.

A committee member said that he was concerned about implementing a temporary moratorium that becomes *de facto* permanent and suspends the capacity to respond to historical designation. They said that there already exists a process for councilors to appeal decisions made by the Historical Commission.

Andrew Lee, Assistant City Solicitor, spoke to confirm earlier statements about the MHC and the MAPC. Atty. Lee said that both bodies have said they will no longer perform their respective duties in Newton.

A committee member said that in the past Katy Hax Holmes, Senior Planner, had given a presentation in the past which included the landmark discussion. The committee member said that it would be helpful for the newly elected councilors to hear as well.

A committee member asked how and why the Mayor, the Planning Department, and Inspectional Services were left out of this proposed moratorium. A councilor answered that when this item was first docketed, it was to temporarily suspend landmarking. At the time, the Council wanted to be sure that important structures could still be preserved, so the Mayor offered to retain the nomination ability for properties as an elected official, as well as the Planning Department for their professional expertise. Addressing the infrequency brought up by a committee member, the councilor agreed that historical designation has been sparingly used in the past. However, this rate has increased and within the last year, Ward 3 alone has seen 10 structures nominated. They said that the intention behind this ordinance is to prevent historical designation from being used as a tool to halt development

A councilor said that the high rate of development taking place in West Newton is the reason for the increased historical designations. They further stated that the designation numbers have been low in the past because the practice was only to nominate a property when it was threatened. The councilor said it was important to allow the historical commission to continue to be able to do its job.

A councilor briefly described seven properties nominated for designation which are already on the National Register of Historic Places as part of the Historic District. She mentioned one

specifically, the former Farmer Realty Building which may not be savable due to impending 40B development.

A committee member asked if 40B trumps Newton's historic landmarking ordinances, to which Ms. Caira answered yes. The committee member then said that she were worried that prohibitive historic landmarking ordinances would result in more 40B development rather than other projects.

A committee member asked to understand the landmark designation process better. She said that they wanted to see a more clearly defined landmarking process.

A committee member asked about the existence of a list of properties of highest historical value. Mr. Heath answered that this list and similar ones exist and is a project Planning continues to work on. He said that the ideal situation is where the owner consents to landmarking.

A committee member expressed concern about this process, saying that it could lead to historical cherry-picking. He said that the role should be left to the Historical Commission. Ms. Caira said that the goal of the list is to proactively work with building owners and that no list would be released without outreach to the owners.

A committee member sought the committee's opinion on the No Action Necessary motion, believing it is a mistake to move forward with the moratorium on the item.

A councilor asked if under the current ordinance, private citizens could nominate a neighbor's home for historical designation. Ms. Caira answered that currently, a citizen would have to go through their councilor for the nomination. Atty. Lee confirmed that a single citizen may not nominate a property and only the Council and/or Historical Commission has this ability.

Another committee member agreed that there should not be a temporary suspension and that the reason for the increased nominations is a result of the increased development pressure in West Newton.

A committee member said that Nathan Giacalone, Committee Clerk, reminded them that as per the request of Chair Crossley, a public hearing on docket item #37-20 was scheduled and posted for January 27, 2020.

A committee member said that after the discussion in the meeting, the question remaining was what to do next regarding the temporary moratorium.

A councilor suggested that the ordinance should be updated so as not to need a suspension of the rules.

Councilor Baker motioned to vote “No Action Necessary” on docket item #37-20 and the Committee voted 2-5 against the motion (Councilors Baker and Wright in favor, Councilors Danberg, Albright, Krintzman, Ryan, and Leary opposed).

Councilor Albright motioned to hold docket item #37-20 and the Committee voted 7-0 in favor of the motion.

The meeting adjourned at 8:47PM.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**