



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, June 15, 2020**

**Present:** Councilors Crossley, Danberg, Albright, Leary, Krintzman, Ryan, Baker, and Wright

**Also Present:** Councilors Auchincloss, Downs, Laredo, Kelley, Humphrey, Bowman, Malakie and Markiewicz

**Planning Board Members Present:** Peter Doeringer (Chair), Sonia Parisca, Kevin McCormick, Sudha Maheshwari, Kelly Brown, Jennifer Molinsky

**City Staff:** Barney Heath, Director of Planning and Development; Zachery LeMel, Chief of Long-Range Planning, Gabriel Holbrow, Community Engagement Specialist; Cat Kemmett, Planning Associate; Jonathan Yeo, Chief Operations Officer

**#88-20**            **Discussion and review relative to the draft Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.

**Action:**            **Zoning and Planning Held 8-0**

**#38-20**            **Request for discussion relative to single-family attached dwellings**  
COUNCILOR LAREDO requesting a review of the zoning requirements for single-family attached dwelling units.

**Action:**            **Zoning and Planning Held 8-0**

**#148-20**           **Request to amend Chapter 30 to eliminate parking minimums**  
COUNCILORS ALBRIGHT, AUCHINCLOSS, BOWMAN, CROSSLEY, DANBERG, DOWNS, GENTILE, GREENBERG, KALIS, KELLEY, LIPOF, MARKIEWICZ, NOEL, KRINTZMAN, AND RYAN seeking amendments to Chapter of the Revised City of Newton Ordinances to eliminate mandated parking minimums to improve vitality of local businesses, reduce the cost of housing, and support the climate action goals.

**Action:**            **Zoning and Planning Held 8-0**

**Notes:**            Committee members discussed the Zoning & Planning Committee agenda through summer. Chief of Long-Range Planning Zach LeMel noted that the Planning Department has been

working with focus groups and interested parties to further develop the draft Ordinance. He noted that it is anticipated that through summer, the department can transition to providing further recommendations on Article 3 of the draft Zoning Ordinance to the Committee based on the workshops, case studies, input from design professionals, work with consultants and feedback from residents. Mr. LeMel explained that the Committee will continue the review of the draft Ordinance as well as discuss mapping, regulations and how the draft ordinance meets the intended goals. The Committee discussed scheduling and agreed to meetings through summer on the following dates:

Monday, June 29, 2020

Thursday, July 9, 2020

Thursday, July 16, 2020

Thursday, August 13, 2020

Monday, August 31, 2020

Mr. LeMel confirmed that a revised draft of the full text should be available for the Committee's mid-July meeting. The Chair explained that the draft will be the best effort on behalf of the Planning Department to provide a framework and make a recommendation for the Council's review based on the last few months of work in committee. The Committee expressed support for deliberation through the summer ZAP meetings to guide the drafting process. The Chair noted that the Committee will have ongoing opportunities to discuss how the zoning rules support the policy direction that the Council wants to facilitate, particularly with regard to diversifying the housing stock, and increasing housing opportunities. The Committee discussed items #88-20, #33-20 and #148-20 together. A copy of the presentation can be found at the end of this report.

### **Outreach and Engagement**

Mr. LeMel highlighted outreach and engagement efforts. Planning held their second design and professional focus group which was attended by 17 participating architects and designers, Planning Department staff and the City's peer reviewer (Utile). Local architects presented case studies of recent projects that have been developed both under the current ordinance by-right and by special permit. The group evaluated how each development was treated under the existing ordinance and how it would be treated under the proposed ordinance. This allowed planning to test the standards to ensure the draft ordinance is functioning in the intended manner and highlighted places where it needs additional review. Mr. LeMel reflected on key takeaways which included:

Education - the need to make sure everyone is using and analyzing the system the right way

Testing - the draft needs to be tested (with examples) to make sure the standards are appropriate

Nonconformities – addressing how nonconformities are handled. Providing an appropriate level of flexibility for nonconforming properties that does not contradict the goals of the draft

ordinance. Under the revised ordinance, if something is non-conforming it should be because it is not consistent with the goals and characteristics desired.

Mr. LeMel noted that additional office hours have been scheduled to encourage feedback (Upcoming office hours on 06/24, 07/08 and 07/22). The third session of public office hours was attended by 12 participants who expressed interest in accessory dwelling units, the special permit process/DRT, support for more flexibility in allowing by-right projects and the impact on commercial property owners' ability to recruit national retailers.

#### **Alternative lot and Building Configuration - Multi-Unit Conversions**

Mr. LeMel presented details of "Multi-unit conversions", where a single-family home is converted into a multi-unit building. The number of units allowed is determined by the size of the existing structure. Mr. LeMel suggested that the multi-unit conversion allows for the preservation of homes and neighborhood character while allowing diversification and additional housing opportunities. He noted that multi-unit conversions can be an option for aging families who want to remain in Newton but may need to downsize. He provided photos of existing homes in Newton to show examples of houses that have been converted, houses that remain single-family and noted that in many cases an outsider cannot identify the number of units from the exterior. Mr. LeMel noted that these options can alleviate financial and operational burdens for homeowners as well as create new units. Multi-unit conversions are currently allowed in the SR and MR1 districts but are restricted by the requirements for lot area (25,000 sq. ft. minimum per unit in SR1) and frontage. The draft code makes this type of development easier by removing lot size requirements. Incentives are provided to encourage the building of units that are 100% affordable. The Residential Unit factor "RU factor" is a formula used to determine how many units you could build ( $\text{Building Square Footage} / \text{RU factor} = \text{Number of allowable units}$ ).

Mr. LeMel questioned if the Council is supportive of achieving specific goals (i.e. increased number of affordable units), should projects that are 100% affordable be allowed as a matter of right? Mr. LeMel explained that the draft ordinance currently only contemplates multi-unit conversions in House Type A or Civic buildings. He asked the Committee whether they should be permitted in other building types and noted that the examples shown in the presentation were not Type A houses. Mr. LeMel stated that the only renovations permitted for multi-family conversions would be those relative to health, building and fire code compliance and Building Components that meet all required standards and regulations. He questioned whether there should be additional flexibility in allowing other minor renovations that could make properties function in a better way.

#### **Alternative lot and Building Configuration - Multi-Building Assemblage**

Mr. LeMel defined Multi-Building assemblages as an amalgamation of buildings on one lot (attached or detached). He explained that the most similar building scenario in the current zoning ordinance is that of single-family attached dwelling units. Mr. LeMel noted that the multi-building assemblages are envisioned in transitional neighborhoods, between village centers and the surrounding neighborhoods. As written, multi-building assemblages are only permitted in the

Neighborhood General District, where there is residential, limited office and limited commercial uses. Mr. LeMel noted that unlike single-family attached dwelling units, multi-building assemblages would require buildings to be front facing to promote engagement with the street and public realm. He stated that the scale of the project would determine whether it would require a special permit or would be by-right. Mr. LeMel posed clarifying questions to the Committee on whether multi-building assemblages should be allowed only in Neighborhood General districts, whether they might be permissible in R4 districts, if another building type might be necessary and whether 100% affordable projects may be constructed by-right.

### **Questions & Comments**

Q: Article III has any proposed development that requires a special permit under 20,000 sq. ft. going to the Planning & Development Board for review and any proposed developments over 20,000 going to the City Council. Some Councilors and members of the public have concerns about this.

A: This question is referring to the development review process, which is not the focus of this meeting. There will be additional opportunities to explore the development review process specifically given the complexities of the Zoning Ordinance. We are looking for direction on this regulation from the Committee.

Q: In multi-unit conversions, could a homeowner add components and additions to the house?

A: Yes, just as we are recommending that they be allowed if the building were to remain as single-family. We recommended that building components do not count toward the footprint but need to comply with lot coverage and setbacks requirements, as well as the individual regulations of the specific Building Component being used.

Q: Assemblages of 3-4 townhouses are found in neighborhoods across Newton. But now the size could be doubled by-right on the same size lot. This seems out of character and out of scale, particularly in the R4 district.

A: The lot size would have to be comparable. For eight units, the lot size would have to be larger than the size of a lot for four units because of setback and lot coverage requirements.

Q: You mentioned that there was no frontage requirement for these structures. Is it true that the frontage requirements are based on the various R districts?

A: The proposed multi-unit conversion does not have a standalone frontage requirement. The frontage requirements would be determined by the district.

Q: For multi-assemblage buildings, are there lot size standards?

A: In the residential districts, there are no minimum lot sizes, but the site would still be subject to lot coverage and setback requirements.

Mr. LeMel confirmed that the multi-unit conversions are currently only proposed for Building Type A and Civic Buildings. Committee members expressed support for allowing multi-unit

conversions in smaller building types noting that additions/components can be added, and many Type B homes are currently multi-family homes. The Committee questioned whether there might be an opportunity in multi-unit conversions and multi-building assemblages to encourage smaller unit and denser living while preserving some open space.

Mr. LeMel reiterated that the reuse of existing homes as multi-family dwellings allows for the preservation of the existing structure, while increasing housing opportunities. Committee members expressed concern relative to whether the existing dwellings would be preserved or if they might become subjects of extensive renovation where only one wall is preserved. Mr. LeMel stated that for the conversions only renovations relative to health, fire and building code would be permitted. Committee members suggested that building components could also be added. The Chair noted that the Council must still determine whether, which and where components will be allowed. The Committee asked that the draft ordinance include language relative to limiting renovations to health, fire and building code renovations. Committee members suggested that the proposed revisions for multi-unit conversions may be attractive for developers as opposed to residents hoping to age in place. It was noted that scale of a multi-unit conversion may be a burden to some homeowners whereas establishing an accessory apartment is less disruptive.

Committee members noted that while multi-unit conversions might allow opportunities to lower residents' expenses, there will be an increase to the cost of City services and potential impact on parking/traffic in neighborhoods. It was suggested that one converted single-family to a multi-unit in a neighborhood has a different impact than several converted dwellings. Committee members observed that many historical homes in the City previously housed multiple generations of families at one time. It was noted that the density is only concerning because of the number of cars. Committee members suggested that there should be incentives for public transit and unbundled parking.

Committee members expressed some support for multi-unit conversions noting that they can be environmentally friendly and affordable ways to retain the neighborhood character and historic integrity while allowing people to remain in their homes. It was noted that the model for denser living and smaller units is different than what currently exists in the City. The Committee urged the Planning Department to provide case studies of multi-building assemblages, building components and multi-unit conversions in the context of the existing and proposed zoning maps. Mr. LeMel confirmed that the proposed maps should be available during the July ZAP meetings. The Chair noted that the Committee will have an opportunity to evaluate the building component formula, the context of encouraging texture and living in place as well as how building components affect the building envelope and the neighborhood character in July.

#### **Allowed Uses**

Mr. LeMel presented the changes to the ordinance relative to allowed uses within residential districts. He noted that generally, the proposed uses match what exists in the existing ordinance with the exception of the Neighborhood General District, which proposes to allow for a mix of

by-right uses (small shops) and multi-use (by special permit). Mr. LeMel noted that the limited range of commercial uses is proposed to aid in the transition from the village centers. Mr. LeMel explained that the draft ordinance also modifies the format for what uses are permitted. In the current ordinance, each use is listed individually. The draft ordinance creates categories of uses. This change is proposed to remedy the way individual uses are treated. Currently if a use is not explicitly identified, it is not permitted. The change to categories will allow different types of uses (i.e. a bowling alley) to be categorized under broad use categories (i.e. entertainment use).

Mr. LeMel explained that within residential districts the uses focus on compatibility, ensuring neighborliness and quiet enjoyment with the intent to promote walkability and recognize a history of mixed-use. He noted that the proposed ordinance shifts away from solely use based, like the current ordinance, and more focused on physical form. In this way, the proposed ordinance hopes to allow uses in building types and neighborhoods where they are not always be identifiable from the outside. This should not only promote vibrancy within Newton's neighborhoods, but also respect neighborhood character. Mr. LeMel noted that the current ordinance currently only permits one home business per unit. A couple, with individual businesses, would not be permitted to operate in the same space, without the proposed changes. Mr. LeMel noted that no substantive changes are proposed to the accessory apartment ordinance, though should be considered moving forward.

With regard to adaptive reuse, Mr. LeMel explained that the proposed ordinance allows for some controlled evolution/flexibility, allowing the expansion and reuse of a property to permit the exhibition of art/sale of art/cafes, etc. He questioned whether certain types of adaptive reuse might be allowed by right and whether there are uses that aren't listed that the Council might want to add. He noted that some uses would be beneficial in parts of the City that aren't walking distance from village center and questioned whether a café or corner store might allow for residents to walk or bike to pick up a coffee or newspaper, instead of having to get in their cars.

### **Parking Requirements**

Mr. LeMel reflected on changes within the draft ordinance relative to parking requirements. He noted that in the current ordinance, all parking requirements are detailed within Chapter 5. In the proposed ordinance, parking requirements are built into each Article. If there are additional development standards, they would be found in Article 8. The draft includes the introduction of parking maximums as well as the reduction in parking minimums, which is consistent with the City's environmental goals and Climate Action Plan. The current code only establishes minimum parking requirements. Additionally, bicycle parking would be required within appropriate developments. Mr. LeMel noted that there are some places where no parking would be required (accessory uses, one- and two- unit residences, non-residential uses less than 5,000 sq. ft.). This modification could help reduce development costs and increase building flexibility on-site. With regard to on-street parking, the recommendation would be that it could be counted for commercial uses only, given that cars are not staying overnight. A developer could still seek a special permit by which to exceed the maximum allowable parking. Mr. LeMel suggested that a

condition of constructing additional facilities would be to require that they be constructed out of pervious materials.

### **Questions & Comments**

Q: How do you regulate adaptive reuse? Would you regulate the amount? How do you make it so it doesn't take over a neighborhood?

A: The current draft requires a Special Permit for any adaptive reuses. In addition, the market is a valuable tool and it would not support a café or corner store in every location. We could create more regulations to limit the potential for overflow.

Q: With regard to the Neighborhood General district, you can see places in Newton Center where homes got turned into a business (i.e. a real estate office, kitchen store, etc.). How much mixed-use changes the transitional Neighborhood General district into an extension of the village center and how do you control it?

A: The uses of commercial spaces in Neighborhood General are much more limited than within Village center.

Q: In 3.7.1.E.2 it states that no parking stall may be located between the building front of the house and the street. Would that be for future builds or what is allowed there?

A: There are broad protections for pre-existing nonconformities. If they exist, they could be maintained, but you could not build new ones.

Committee members suggested that accessory dwelling units should be permitted prior to four years post construction of the building. It was noted that there has not been a proliferation of accessory dwelling units since passing of the ordinance and the issues relative to short term rentals have been solved.

The Committee discussed the reduction in minimum and maximum parking requirements. Some support was expressed for the elimination of parking minimums noting that property owners/developers will still be permitted to offer parking and the winter parking ban will limit on-street parking. Committee members suggested that elimination of parking minimums could have detrimental effects in neighborhoods as residents could use on-street parking as car storage year-round, which is contradictory to Newton's current overnight winter parking ban. The Committee noted that on-street parking should not be counted for any residential uses. Committee members cautioned eliminating parking minimums and suggested that an extended parking ban could disincentivize developers from not providing adequate on-site parking. Committee members noted that elimination of the parking ban is not consistent with the City's street sweeping goals and could encourage reliance of on-street parking. It was also noted that extension of the parking ban could create hardships for property owners with cars, not located near public transportation. It was suggested that turning parking to the market can create unintended consequences unless there is a method to regulate it. Committee members suggested that the ordinance should reference the winter parking ban so that residents are

aware that on-street parking is not an option. The Committee expressed support for requiring parking facilities in excess of the maximum pervious and only by special permit.

Committee members expressed support for revisions to the regulations for home businesses. Councilors noted that allowing adaptive uses, corner stores and small cafes in neighborhoods provide opportunities for diverse, walkable, vibrant neighborhoods. The Committee noted that the 15-minute neighborhood planning principle encourages the placement of small cafes and grocers in neighborhoods to make it easier for residents to access their daily needs and public transit within a 15-minute walking distance. It was noted that less reliance on cars can serve the community well. Committee members suggested that some small businesses can be beneficial in neighborhoods but noted that very successful businesses can be detrimental in a small neighborhood. It was noted that if home businesses are allowed, the Council must carefully consider what types of uses will be allowed as well as where they will be allowed. It was noted that the City does not currently have 15-minute neighborhoods and understanding the impacts of allowing adaptive uses/small businesses in neighborhoods is critical.

Mr. LeMel noted that the parking sections are interconnected. He confirmed that parts of the draft need to be updated if on-street parking is only going to count for commercial entities. The Committee asked for a comparison of allowed uses in the current and proposed uses and a comparison of the required number of accessory parking spaces. The Committee expressed appreciation for the presentation and responses to questions. With that, the Committee voted unanimously in favor of holding items #88-20, #33-20 and #148-20 with a motion from Councilor Danberg.

**#278-20      Reappointment of Laurie Malcom to the Upper Falls Historic District Commission**  
HER HONOR THE MAYOR reappointing Laurie Malcom, 95 Algonquin Road, Chestnut Hill, as a regular member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire on December 24, 2022. (60 days: 08/07/2020)

**Action:**      **Zoning and Planning Approved 8-0**

**Note:** Committee members reviewed the appointment of Laurie Malcolm to the Upper Falls Historic District Commission through December 2022. After a review of Ms. Malcolm's resume, Committee members expressed no concerns relative to the appointment. Councilor Baker moved approval of her reappointment which carried 8-0.

With that, the Committee adjourned at 9:50 pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**