



Zoning & Planning Committee Report

City of Newton In City Council

Monday, September 14, 2020

Present: Councilors Crossley (Chair), Danberg, Krintzman, Albright, Wright, Baker, Ryan, and Leary

Also Present: Councilors Kelley, Laredo, Markiewicz, Greenberg, Bowman, Downs, Humphrey, Malakie, and Kalis

Planning & Development Board: Peter Doeringer (Chair), Kevin McCormick, James Robertson, and Sudha Maheshwari

City Staff: Zachery LeMel, Chief of Long-Range Planning; Jennifer Caira, Deputy Director of Planning; Cat Kemmett, Associate Planner; Andrew Lee, Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; Barney Heath, Director of Planning & Development; Nathan Giacalone, Committee Clerk

#345-20 Appointment of Alan Mayer to the Newton Historical Commission

HER HONOR THE MAYOR appointing ALAN MAYER, 479 Walnut Street, Newton, as an at-large member of the NEWTON HISTORICAL COMMISSION for a term to expire on September 30, 2023. (60 Days: 11/07/2020)

Action: Zoning & Planning Approved 8-0

Notes: The Chair welcomed Mr. Mayer asking him to introduce himself and talk about why he is interested in serving on the Newton Historical Commission (NHC). Mr. Mayer said that he has been a practicing architect for 37 years, including 15 years having his own practice in Newton which focuses on renovating and restoring residential buildings in Newton, Brookline, and surrounding communities. He said that through his extensive work in Newton he has become familiar with the NHC. Mr. Mayer said his primary reason for wanting to serve on the NHC is to use his skills to contribute to Newton and that having more architects on the NHC will be a good thing. Clarifying that he understands historical preservation to be a charged subject in Newton currently, Mr. Mayer said that he hopes to bring fresh energy, perspective, and kindness to the NHC.

The Committee thanked him for his willingness to serve as well as his work with the landmarking/demolition delay working group.

Q: While it is clear you have an extensive background in architecture, what is your experience with historic preservation?

A: My interest in historic architecture is an age-old passion. It goes hand in hand with my architecture. My first project about 30 years ago was a late 1800s Greek Revival in Harvard Square. The best approach is to value the original intent and ideas of the building and restoring the home to respect that history. While the exterior of the building may mostly require restoration, there may be more reconstruction involved inside to meet owners' needs, and original features may have been removed decades ago.

Q: With zoning redesign being the primary topic before ZAP currently, how would you address conversion of older and historic buildings into multi-family in order to maintain its historic value to a neighborhood?

A: The most important challenge for an architect in cases like these is to maintain the essence of the building's historical significance. Historical structures are not frozen in time, have normally changed over time and change is acceptable for them provided the historic value is respected. Two-family conversions at least should be doable within these constraints.

Members of the Committee thanked Mr. Mayer for his willingness to serve.

Councilor Albright moved approval which carried 8-0.

#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 & Planning Held 8-0

Notes: The Chair introduced the item noting that the Planning Department has received written questions and comments sent in by Councilors, most of which are included in the Friday Packet. The Planning Department memo in the Packet asks the Committee to focus on dimensional standards proposed to define the allowable building envelope in each residential district, and for each housing type. Detailed tables are provided to illustrate to what degree the proposed standards for lot frontage, lot coverage, setbacks, building footprints, and building components, reflect what is built in the residential districts today, according to the Pattern Book. She said it is now the Committee's job to decide if these standards combine to achieve the goals, and asked each member to comment on this in particular, including what additional information anyone may need to reach a decision. In the last part of the meeting there will be a discussion as well on the Committee agenda proposed through the rest of the year.

Chief of Long-Range Planning Zachery LeMel shared a PowerPoint (copy attached), outlining the specific district Dimensional Standards, Building Type Dimensional Standards, and building component allowances and the rationale for each one.

District Dimensional Standards:

Mr. LeMel said that the combination of dimensional standards are designed to work together to steer new building to fit within the scale and proportion of the existing neighborhood fabric. Most lots established in Newton predate the 1953 zoning code, a major revision which introduced minimum lot

sizes up to (25,000SF minimums depending on district). This both led to spacing out fewer new homes over more land and made a large percent of existing lots “legally non-conforming.” The proposed code eliminates minimum lot sizes in favor of a set of dimensional requirements favoring more contextual development.

Lot frontage, the length of the boundary along the street, impacts the scale of a streetscape in a neighborhood, and helps establish the rhythm of the street. Smaller lot frontages mean buildings closer together for a tighter neighborhood fabric, while larger frontages mean buildings spaced further apart for a looser fabric. The table shows that by judiciously reducing frontage requirements, we would reach far more consistency with what exists, reducing nonconformity. For example, the SR2-new district requires minimum frontage of 100 feet, but this conforms to only 20% of existing lots in that district. The proposed ordinance, in R2, reduces required frontage to 60 feet, which captures 85% of existing lots. The current ordinance typically requires more lot frontage than what exists for the typical lot in Newton.

Lot coverage in the current code is defined as the percentage of a lot that may be covered by structures. In the previous draft of the proposed code, the definition was proposed to include all impervious surfaces, attempting to align with climate action goals. Many felt this was both too restrictive and complex to define, so the definition currently being explored today is to include all structure and paved areas for vehicles (not including, for example, patios or walkways).

The table shows that the proposed standards smaller lots are allowed a higher **percentage** of lot coverage than larger lots. This is similar to the thinking behind our current code allowing more F.A.R. (building volume) on smaller lots, which normally are closer into village centers and commercial districts.

Setbacks vary throughout the city according to relative density of s district. Front setback minimums are proposed to be slightly reduced and a range can be more in keeping with what exists. Table #3 shows this increases conformity. However **side and rear setbacks** are proposed to increase in several districts in response to long recorded community concerns about new by-right development which is too close and out of scale with neighboring properties. Therefore, these setbacks would increase nonconformity, but seek to stabilize the pattern of development.

The combination of lot coverage, lot frontage, and setbacks overall reflect the development patterns that make up Newton today and/or facilitate the desired outcomes laid out by the City Council’s goals and objectives.

Building Type Dimensional Standards:

Controlling building footprint is a tool used to regulate building volume and provide predictability in development. The proposed footprint regulations are drawn from the extensive data in the Pattern Book, which catalogs existing building forms in Newton. Table #6 shows that the majority of the proposed code sets the maximum footprint of the base building at the median of what exists throughout Newton today. Then by allowing additional building volume by way of adding building “components” (see below) the maximum building volume allowed reaches about 85% of existing building volumes. This

approach seeks to allow new development and renovations to emulate the existing physical character (scale and proportion) of Newton's neighborhoods.

Building Component Allowances:

Building components, such as porches, bay windows, side and rear additions, and dormers are used as a tool to allow properties to easily expand in a controlled manner, while encouraging the addition of elements that provide scale and reflect the diversity of forms existing in Newton for redevelopment, renovation, and new construction. Under the proposed ordinance, building components will be allowed by-right under certain conditions, including a maximum of 25% additional footprint, if the site is large enough to accommodate this. The intention is to incentivize building components through controlled flexibility. The desired impact and outcome is to promote architectural articulation and simplify the process for homeowners to renovate as their needs change over time. In this way, staff believe Building Components can help dissuade teardowns as a result. Incentivizing building components will promote controlled flexibility and architectural articulation, dissuading teardowns as a result.

Mr. LeMel concluded his presentation and several Councilors thanked him, saying that the detailed tables and charts provided were extremely helpful in illustrating the reasoning behind the proposed standards.

Discussion:

The Chair said that the proposed Article 3 ordinances continue to respond to Council and community feedback as it develops. She asked Councilors to focus their comments on whether they think the proposed ordinance is moving in the right direction based on the dimensional standards proposed, and to clearly state what additional information, if any, they feel is needed in order to decide this question. The Chair encouraged all to send questions in writing to the Planning Department, and to contact staff as needed for clarification.

Committee Comments were first.

C: An issue that the Committee must address as it discusses zoning redesign is that many people buy into Newton through affordable homes then renovate them and make them unaffordable as they improve them. Many homeowners expect this return and buyers will no longer be able to do this under the proposed ordinance. Another key issue that must be considered is that when many residents buy into neighborhoods, they do not expect them to change much. Or, as residents continue to move into the city and the rules change, the Council should think on how their own situations would have been affected to be cognizant of the impact these changes will have.

C: The size of the townhouse should be reduced in order to promote greater density.

C: "Consensus" needs to be better defined as it relates to the current discussion. The Committee should also remember that since Newton is already built out, the proposed code will largely address redevelopment issues. Some of these problems could be dealt with within the existing code and many of these problems relate to each other. Some dimensional changes cannot be supported, such as those

changes that do away with open space protections as larger lots promote more tree cover. Another advantage of maintaining the existing framework is that people already largely understand it. The Committee should also consider how much this proposal could change the character of the city. The terms such as House A, House B, and so forth should be named better

C: The Building Professional Group has also commented on naming “House Types” using a more objective term like building envelope or volume.

C: There should be more flexibility to convert these older large Victorian houses to multi-family living. Townhouses should be allowed as well. In the proposed R2 district, 20 percent of homes conform under the 15-foot setback, while under the 12.5-foot setback 29 percent of homes conform. The older setback was developed in the era before cars were as common. If Newton is trying to promote a reduced car lifestyle, the setbacks should accommodate this, and a 12.5-foot setback might not be needed

C: It would be good to see more active discussion between councilors on the proposed ordinance. This produces lots of good information.

C: Open space should refer to wooded areas and conservation land rather than yards. Development should work to preserve the remaining open space in Newton and incentivize increased density in the already built-up areas. There should also be a greater emphasis on public green spaces through more effective methods such as native growth and pollinator gardens. The Sawmill Brook Parkway is a great example of alternatives to more mowed grass.

C: The 12.5-foot setbacks are good as larger houses are taking over neighborhoods of more modest construction. Not the same neighborhood as before as large houses build right to setbacks in neighborhoods of smaller ranch houses.

C: This is a hybrid of the form-based code and its an important tool to help Newton meet its zoning needs and goals. The main goal should still be increasing affordable and diverse housing by allowing more multifamily options while still respecting privacy. Limiting the size of units will make them more affordable. Zoning must look to the needs of future generations and respond to the effects of climate change. Many of these can be observed across the country and rest of the world. As increased density is one part of the solution, the proposed ordinance should push for cooperation with the state to provide alternative transit.

C: From a policy perspective, it is good to have more housing options available to address Newton’s housing challenges.

Councilor and Planning Board comments begin here

C: Each separate setback should be examined on its own to understand where the numbers chosen for it come from.

C: There are some concerns from within the local architect community regarding the proposed ordinance. There needs to be better input from them on the process.

C: It is a good objective for building components to minimize teardowns, but there is no certainty that this will be the result. There needs to be better discussion on what the new standards will lead to and if this will be something other than a single-family house.

I like what the charts show for the most part in that we are moving to the median for gentle change.

C: Overall the proposed ordinance seems to be moving in the right direction, but there are still some concerning things regarding the mapping. There needs to be a return to studying the distance markers from transit stops in order to determine how best to promote public transit and walkable neighborhoods. This links to the allowable dimensional standards in terms of where they apply.

C: In the proposed R2 or R3 district, if somebody has a larger lot then they should be able to build a larger house. There needs to be more analysis on how likely these proposed rules are to lead to increased teardowns. One area to study would be how many unbuildable lots could be made buildable by eliminating the minimum building size. It is unknown how many new lots the proposed ordinance would create. Varied lot shapes and sizes should be taken into account. It may be a benefit to allow larger houses along with a control factor to ensure that these do not go on undersized lots.

A: The Planning Department committed to providing data on how many properties make up each proposed district.

C: Past practices have been to expand the dimensional limits over time to make the minimum lot size bigger to avoid too much density. Allowing properties to be divided will lead to more development and density. Floor Area Ratio (FAR) is a good tool as it allows for better understanding on how a project may affect neighbors. Whenever projects can be built right to the setback, pressure is always increased on neighboring properties. There has been no good explanation for the move away from FAR in the proposed ordinance.

C: In order to illustrate how some of these proposed changes might work, the Planning Department could provide a concept of how a 3,000 square foot house could fit onto a 7,000 square foot lot.

A: The Planning Department is still exploring how to factor features like driveways and patios into FAR. It was noted that this needs to be a policy discussion for the Committee.

C: Ideas to limit teardowns should be brought up during an upcoming ZAP meeting, especially as some of the zoning proposals appear that they could promote teardowns.

C: There needs to be at least one more meeting to build a consensus on dimensional requirements. A form-based code will allow the city to identify and maintain the neighborhood characteristics that people move into Newton for.

C: The FAR formula designed measuring mass above grade was smart, but requires an elected body to weigh in on design issues/whether to allow more building if we think the architect has successfully

mitigated the appearance of mass and bulk. It is too subjective to apply consistently, and after over ten years on the Land Use Committee I see that we have not done so.

Questions and Answers:

Committee Questions First

Q: Where does the data in the tables come from?

A: This is the same data collected for the Pattern Book which came from the Assessors Database and public GIS data. This data cut out the extremes of some new constructions and is now slightly out of date.

Q: How was 28 feet chosen as the maximum townhome frontage?

A: This was from input from the Planning Department's consultant, Utile. Utile is made up of architects, urban planners, and designers.

Q: Why was townhome connection reduced from three homes to two?

A: This is because of the change in definition of the Duplex building type. Previously a Duplex could be built as side-by-side units. The latest draft only allows the units to be stacked in a Duplex. For clarity, the definition of townhome changed from three to two, because now a side-by-side two-unit building is no longer considered a Duplex.

Q: According to the Planning Department, the teardown threshold for a new house is 3,800 square feet. If new builds under the proposed ordinance can be built to 4,375 square feet, won't this lead to more teardowns?

Q: In the provided tables, how is the Planning Department using the old definition of lot coverage and the new one?

A: Table #2 takes GIS data into account to show all impervious surfaces. Current Ordinance Rules shows the inverse of useable open space.

Q: The percentiles of conformity are helpful, but can the Planning Department provide the raw numbers of the lots that would be impacted by these decisions?

A: Yes, the Planning Department can get to work providing these numbers.

Councilors and Planning Board Questions begin here

Q: For the side setbacks on Table 4 and the results, with 12.5-foot setbacks conformity among existing homes would be reduced significantly. What happens to the alteration of these homes?

A: If the house is made nonconforming as a result of the increased side setback, then that house would become legally non-conforming. Legally non-conforming structures are offered broad protections under MGL Ch. 40A sec. 6. Under the current ordinance, a legally non-conforming property looking to renovate on or within that non-conformity requires a Special Permit. If the house is compliant with the proposed side setback, then it would need a variance to build beyond the proposed side setback.

Q: Who are the consultants the Planning Department has been using? Do they have experience with single-family residences in Newton? This process has been ongoing with too much theory and not enough practical input.

A: the consultants are a firm called Utile and the Planning Department can look into their experience in Newton with designing single-family housing.

Q: Are there any economic studies to support that the changes in the proposed ordinance would support more affordable housing?

A: The chair noted that acquiring economic analyses is under discussion but off topic relative to tonight's focus on dimensional standards.

Q: Has ISD received and commented on the draft?

A: They have received it but have not returned any comments yet. They have seen all versions and iterations of the draft so they are familiar with it.

Q: What is to be done with lots that are unbuildable due to small size?

A: The proposed ordinance will allow the construction of smaller houses on smaller lots. Under the current ordinance you maximize value by maximizing the building size. Under the proposed ordinance, you could maximize your value by splitting a larger lot and building a new home on the newly created lot. If this happens, the district and building type dimensional standards will ensure that the new development aligns in scale and proportion to what exists today.

Q: What rules is the Planning Department using for the proposed setback standards in the conformity distribution? If conformity is not the driving force behind these new standards, then we should get the standards that were used.

A: This was provided within the narrative of the memo and the presentation.

Q: What does housing opportunity mean?

A: This refers to facilitating the variety of housing options to accommodate the different needs of the community. For example, Newton's aging population needs different home layouts and sizes than a young family or a single individual.

Q: The minimum frontage of an R1 lot is 80ft. Would a lot need to be 164 feet to be divided or could it be divided if the lot was closer to 100 feet?

A: Lots can only be divided into the minimum frontage so it would need to have at least 160 feet of frontage.

Fall Calendar

This Fall the goal is to build understanding and consensus in order to move into discussions on Article 4 Village Districts. There is a proposal to hold a meeting on October 1 to keep on schedule and this meeting would cover parking requirements, garage design standards, and driveway access. It could also include a summary review of tonight's discussion. Further meetings through the rest of the year will cover topics

including multi-unit conversion, alternative lot configurations, and residence district mapping. The Chair noted that straw votes may be taken by the end of the year as the Committee deems appropriate, but these will not cover maps. The objective is to make enough progress to hold a public hearing on December 3.

Councilor Krintzman moved hold which carried 8-0.

#346-20 Reappointment of Doug Cornelius to the Newton Historical Commission

HER HONOR THE MAYOR reappointing DOUG CORNELIUS, 15 Lockwood Road, West Newton, as an at-large member of the NEWTON HISTORICAL COMMISSION for a term to expire on July 31, 2023. (60 Days: 11/07/2020)

Action: Zoning & Planning Approved 8-0

Notes: The Committee reviewed the Mayor's reappointment of Doug Cornelius to the Newton Historical Commission for a term to end on July 31, 2023. Committee members expressed no concerns relative to the reappointment and voted unanimously in favor of approval with a motion from Councilor Danberg.

#347-20 Reappointment of Peter Dimond to the Newton Historical Commission

HER HONOR THE MAYOR reappointing PETER DIMOND, 18 Sterling Street, West Newton, as a full member of the NEWTON HISTORICAL COMMISSION for a term to expire on May 13, 2022. Mr. Dimond will be serving the three-year term to expiring May 2022. (60 Days: 18 Sterling Street, West Newton)

Action: Zoning & Planning Approved 8-0

Notes: The Committee reviewed the Mayor's reappointment of Peter Dimond to the Newton Historical Commission for a term to end on May 13, 2022. Committee members expressed no concerns relative to the reappointment and voted unanimously in favor of approval with a motion from Councilor Danberg.

#348-20 Reappointment of Jeffrey Riklin to the Newton Upper Falls Historic District Commission

HER HONOR THE MAYOR reappointing JEFFREY RIKLIN, 37 High Street, Newton Upper Falls, as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire on July 31, 2023. (60 Days: 11/07/2020)

Action: Zoning & Planning Approved 8-0

Notes: The Committee reviewed the Mayor's reappointment of Jeffrey Riklin to the Newton Historical Commission for a term to end on July 31, 2023. Committee members expressed no concerns relative to the reappointment and voted unanimously in favor of approval with a motion from Councilor Danberg.

#349-20 Reappointment of Mark Armstrong to the Newton Historical Commission
HER HONOR THE MAYOR reappointing MARK ARMSTRONG, 61 Vaugh Avenue, Newton Highlands as a full member of the NEWTON HISTORICAL COMMISSION for a term to expire on July 23, 2023. (60 Days: 11/07/2020)

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

Notes: The Committee reviewed the Mayor’s reappointment of Mark Armstrong to the Newton Historical Commission for a term to end on July 23, 2023. Committee members expressed no concerns relative to the reappointment and voted unanimously in favor of approval with a motion from Councilor Danberg.

#350-20 Reappointment of Nancy Grissom to the Newton Historical Commission
HER HONOR THE MAYOR reappointing NANCY GRISSOM, 7 Orris Street, Auburndale, as a full member of the NEWTON HISTORICAL COMMISSION for a term to expire on July 10, 2021. (60 Days: 11/07/2020)

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

Notes: The Committee reviewed the Mayor’s reappointment of Nancy Grissom to the Newton Historical Commission for a term to end on July 10, 2021. Committee members expressed no concerns relative to the reappointment and voted unanimously in favor of approval with a motion from Councilor Danberg.

Chairs Note: *It is the Chair’s intent to discuss scheduling of a public hearing relative to item #30-20 Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages.*

Notes: The October 1st meeting must begin with a public hearing on this item. The Law Department has determined that a public hearing must be held in order to postpone implementation of the Garage Ordinance. In addition, although the Committee had initially been advised that a postponement of an ordinance would require only a majority vote, Law determined that it requires a 2/3 vote to pass. The vote was 15-9, 16 votes are required to pass the item. By taking up a public hearing October 3, Full Council can properly vote the item at its next meeting, October 5.

The meeting adjourned at 10:15PM.

Respectfully Submitted,

Deborah J. Crossley, Chair