



Zoning & Planning Committee **Report**

City of Newton **In City Council**

Monday, January 25, 2021

Zoning & Planning Committee Members Present: Councilors Crossley (Chair), Danberg, Leary, Albright, Wright, Krintzman, Baker, and Ryan

Also Present: Councilors Bowman, Kelley, Lipof, Downs, Malakie, Greenberg and Laredo. Planning & Development Board Members Peter Doeringer (Chair), Sonia Parisca, Kelley Brown, Sudha Maheshwari, Kevin McCormick, Jennifer Molinsky, James Robertson and Chris Steele

City Staff: Chief Operating Officer Jonathan Yeo, Commissioner of Inspectional Services John Lojek, Director of Planning Barney Heath, Deputy Director of Planning and Development Jennifer Caira, Senior Planner Zachary LeMel, Associate Planner Cat Kemmett, Community Engagement Planner Nevena Pilipovic-Wengler, Assistant City Solicitor Andrew Lee, Committee Clerk David Olson

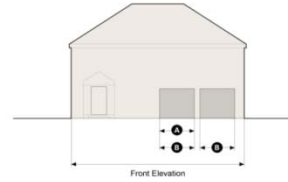
#448-20 **Proposal to amend City of Newton Zoning Ordinances Chap. 30. Sec 3.4 Garages**
COUNCILOR CROSSLEY, on behalf of the Zoning & Planning Committee proposing to amend Chapter 30, City of Newton Zoning Ordinances, by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in Chapter 30, Section 3.4. The objectives are to prevent garages from dominating the streetscape, improve safety along the public way for all modes of travel and achieve consistency with climate action goals.

Zoning & Planning closed the Public Hearing and Held in Committee 8-0

The Chair of the Zoning & Planning Committee opened the meeting and introduced those in attendance at the meeting. She noted that ordinance A-78 has been deferred multiple times and if not amended will go into effect on April 1st. She then asked Associate Planner Cat Kemmett to present the key components of the proposed garage door ordinance (attached) prior to opening the public hearing.

Ms. Kemmett stated that the goal of this proposed ordinance is to limit the visual impact and dominance of garages from the street, while still allowing options for lots of all shapes and sizes. This is to be accomplished by regulating the width of front-facing garage doors relative to the total width of the structure. The relative width regulations will only apply to front facing garage doors and will be measured as the sum of the widths of all front facing garage doors.

The front-facing garage door will be limited to 45% percent of the total front elevation of the structure if using only single garage doors, or 40% of the total front elevation if using a double garage door. Double doors are a bit more imposing and so a slightly more restrictive percentage was warranted.



The total door width on any part of the front elevation which is set back more than 10 feet from the front most exterior wall will be excluded from the total.

Single garage doors may be up to 9 feet wide and double garage doors may be up to 16 feet wide. Door width maximums will apply only to front-facing and side facing garages as the doors are more visible from the street.

Front-Facing Garage - Single Garage Doors	min	max
① Width of an Individual Single Garage Door		9 ft
② Sum of Width of Single Garage Door(s)		45% of Front Elevation

Residential properties with one unit will be allowed up to two garages, one attached and one detached, with a limit of 700 square feet in total ground floor area and up to three cars. This is not changed from the current ordinance.

Residential properties with two units will have a maximum garage footprint for each unit of 500 square feet, and each garage will be limited to two cars.

The width regulations will limit the impact of garages close to the street because of the way the front elevation is to be calculated. That is, Garages more than 10 feet in front of the main body of the house would be calculated just on the Front-facing garage wall, so the relative width would be too high.

Side facing garages will be allowed in front of the main elevation of a house as long as there is at least 10% fenestration on the garage wall facing the street.



13% Fenestration

A front facing garage which is set back more than 10 feet from the front elevation is exempt from the width standards for front-facing garages. A garage that is 70 feet or more from the primary front lot line, and garages located on rear lots, will be exempt from the standards for front and side facing garages.

In contrast, Newton's current zoning ordinance does not place any restrictions on garage door width, overall garage width, or fenestration. Garage placement on the lot is limited only by the setback requirements, and up to 700 square feet in total ground floor area of garage space is allowed by-right.

This ordinance, if adopted, will only apply to new garages and renovations of existing garages. A nonconforming garage can remain in perpetuity in its current state. A lawfully nonconforming structure does not need to comply with the requirements of a zoning change.

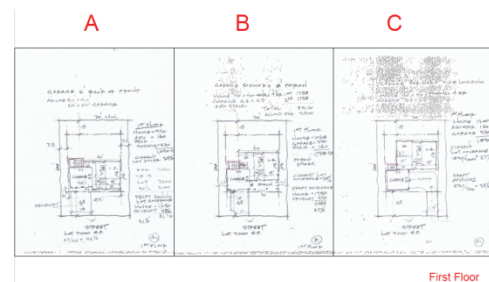
Ms. Kemmett noted that since the December 14, 2020 draft, a few minor changes have been made including:

- The required separation between accessory and principle buildings has been reduced from 6 feet to 5 feet;
- The placeholder definition for rear-facing garages has been removed;
- The definitions of front- and side-facing garages have been updated to clarify measurement for curved primary front lot lines; and
- The means by which the primary front lot line will be determined for properties where the main entrance does not face a street has been clarified.

The Planning Department recommends that, if adopted, the ordinance have an effective date of April 1, 2021, and not apply retroactively. This would give building professionals ample time to understand the new zoning, and to ensure that any currently permitted projects will be able to go through before any new standards are put in place.

The Chair of Zoning & Planning Committee laid out the ground rules for those wishing to speak during the public hearing including a 2.5-minute time limit for their comments. The Public Hearing was opened and the following individuals spoke:

Peter Sachs - I have some illustrations to go with my comments (attached) to show you the difficulties in placing the garage on smaller properties (7,000 sq. ft. with 70 ft. width), particularly two-story, 30' by 40' center entrance colonial properties, when you cannot put the garage fully in front of the house. Example A shows a garage 2 ft. back from the front of the house. In Example B the garage is less than 10 feet in front of the house. Example C shows a garage fully in front of the house. If you cannot put the garage fully in front of the house, it will limit the ability to create an accessory dwelling unit (ADU) over the garage. I'm a big supporter of ADUs as a vision of the future to enable older people, like me, to be able to build an ADU and utilize the garage as part of that construction to provide for more housing in Newton. My point is, this makes it very difficult for smaller properties to take advantage of ADUs by utilizing the garage structure as a conversion.



I have also noticed that in this ordinance proposal there is no room for any special permit. Newton is beautiful because of its variety, its topography, its variety of houses and designs, and

different lot structures all over the city. It's very difficult to write a singular proposal for an ordinance without a special permit because there is so much variation. I encourage the committee to adopt a special permit clause.

I also don't feel that both of the architects groups have participated enough in the formation of this ordinance.

The Chair of the Zoning and Planning Committee stated that there are many architects and builders here tonight who have participated in the process and that they can speak to that. Thank you, and as you know you can always write to us in addition to your comments tonight.

Dan Powdermaker - I have rehabbed and renovated primarily Victorian houses over the last 20 years in Newton. I think that what's in front of the committee in this ordinance certainly does reflect input from me and from other builders and architects. Although it's not everything that we want, it does address a lot of our concerns in terms of maintaining flexibility in design, especially in a city where we've got highly irregular lot sizes, and lot shapes, and where we're trying to preserve existing housing stock.

We have buyers who want garage spaces with their properties, and being able to have some flexibility in placement, while at the same time addressing some of the aesthetic concerns that have prompted a lot of complaints in terms of oversized garages, this proposed ordinance does seem to accomplish a lot of that. To Mr. Sachs's point about ADUs, I think that when we started the intent was to have the garage revisions as part of broader zoning reform. That has not happened and there's certainly a lot of other things, including parking and driveway concerns, that I hope the Council gets to in the coming months as they look at broader reform.

Treff Lafleche - I too, as an architect, have participated in the review and negotiation of the changes in the garage ordinance that is in front of you. Although in my opinion it is still not as clear and as good as it could be, I do believe that it is moving in the right direction. It was vetted by builders, developers, and architects. In working with the Planning Department we were able to clarify a number of things that we felt were important, primarily responding to the reality that garages are part of the living space of a home. They are not only to house automobiles, the value of the garage is much greater than many of the members of the Council appreciate. I think that the ordinance in front of you is better than the previous one. It still lacks some clarity related to the amount that garages be allowed to come forward of the house, primarily because of sustainability. One of the things that we are trying to deal with is the amount of stormwater runoff due to impervious surface areas and garages. The natural tendency these days is to move garages from the rear of the property to the side or to the front in order to reduce the amount of impervious surface related to driveways. Allowing the migration of the garage achieves a very important goal of sustainability.

Nathaniel Lichten - There are two issues that I want to address. The first is the front facing garage being up to 10 feet in front of the house. If you allow a garage to be 45% of the width of the house, it should not be able to project that far forward, and certainly without a special permit. A special permit process for moving the garage in front of the house is more acceptable, but I'm worried that being 45% of the width, and 10 feet in front of the house, we're going to just continue to have the snout houses that we currently have. It isn't pedestrian or neighborhood friendly. It makes the garage the predominant feature of the house. I think that the 10-foot rule should be reduced, or a special permit criteria should be added.

The second point is that there is a special permit allowance for having more than three cars for a single dwelling unit, but you don't have a special permit option for increasing the number of cars for a two unit building. You could have five cars on a single family lot if you get a special permit. but there's no ability for a two-family house to have that same five-car garage, or two garages - a two-car garage and a three-car garage. There should be special permit criteria for the two-dwelling unit to match the single-family special permit criteria that exists in the ordinance.

Lisa Monahan - I'm an architect with the architect and builders group. A lot of what I would have said has already been said, so I won't repeat it. I just want to say that a lot of good has occurred by way of developing a process around this project. I think that the Planning Department and the Zoning and Planning Committee have worked really well together in going through a really complicated ordinance. It was also the first opportunity that we had as a group to have a chance to weigh in and offer some opinions. And although I agree that it's not perfect, I think that lots of improvements were made, and there will be a chance to go back and fine tune things. Again, one of the really important things that has that come out of this was learning how to work on this code as a group, and that too will improve. I want to applaud the Planning Department and the Zoning & Planning Committee.

The Chair of the Committee stated that it was a good time to recognize everyone who contributed their expertise, and talent, pro bono to help sort this out.

Jay Walter - I would like to applaud the restraint shown in the proposal, it does not over regulate the location of the garage. I think that the dimensional constraints, and defining the width of the garage relative to the house will address the issues of major concern that created the need for this garage ordinance. Work on the garage ordinance, and on garages in general, is not over. Zoning Redesign will address issues of paving, lot coverage, accessory apartments, and accessory buildings that will further help define more acceptable garages and their placement on lots. I disagree with my friend Peter Sachs that this regulation should include more special permitting. I think there's enough flexibility written into this ordinance that you don't need additional special permits. However, I agree with the earlier speaker about the

number of cars relative to single-family dwellings versus two-family. That should be addressed, as well as better clarification of corner lot conditions. I didn't hear anything about that.

Ellen Katz - I'm an architect and 30-year resident of Newton and I serve on the Newton Conservation Commission, but these views are my own. I emailed a drawing and analysis to you on Friday (attached). The new garage ordinance is an improvement in many ways, however, it encourages larger garages in the case of people wanting to build accessory units, in which case, I agree with Peter Sachs. The garage is limited to 700 square feet and one and a half stories. If you build out to the full 700 square feet, the one and a half story limit allows you to have about 450 square feet of living space above the garage, which is about the size of an efficiency apartment in Manhattan. If you build a significantly smaller garage you end up with much less living space over that garage. There's an incentive right there to build the largest possible garage, because that's the only way to get an accessory apartment unit over it. For a one-car garage of 300 square feet, you'd only end up with 200 square feet above it, which doesn't meet the minimum requirements for an accessory dwelling unit. Under this proposed ordinance, if you don't build out to the maximum square footage, you can't build a studio apartment above. The ordinance is encouraging the largest possible garage, maximizing lot coverage and discriminating against homeowners in neighborhoods with historically small lot sizes such as Newton Upper Falls. This ordinance could be fixed by allowing two full stories if the garage footprint is 500 square feet or less. If the structure is 500 square feet or more, then yes, you can limit the building to one and a half stories.

Mark Sangiolo - I'm finding myself in a garage purgatory for two-family townhouses. When you have a two family, you're not allowed to put Unit One's garage up against Unit Two. You have to create this awkward living space that is dedicated to Unit One as a buffer between Unit One and Unit Two. I don't really understand the rationale, it seems like a weird interpretation of some rule. I don't like being constrained in the design and doing less good design or worse design, like putting the garages on each end of a two family. It sets where you can put your windows, etc. You can't put the garages next to each other, nor can you have one garage in between Unit One and Unit Two because that puts it up against the second unit. I just wanted to bring this up. I thought it was being addressed, but I discovered recently that although a related clause has been removed from the draft ordinance, another clause remains that ISD interprets to mean the living spaces in two units must be contiguous - and does not include a garage. Maybe it can be fixed somewhere else in the ordinance. I just wanted to make everyone aware of that.

The Chair of the Zoning and Planning Committee noted that she spoke with Mr. Sangiolo earlier about this, and also with Ms Caira and the Law Department. The clause in question in the proposed garage ordinance was eliminated, but in the first section of the ordinance, Section 1.5.1B, there is define a two-family detached building. That definition does not belong in the garage ordinance, but is an issue that absolutely needs clarification in terms of how it's being interpreted by the Inspectional Services Department. The law department is now engaged in

assessing the language and ISD's interpretation. She asked Ms. Caira if she could comment at this time.

Ms Caira stated that the issue does lie in the definition for two-family detached structures in Section 1 and how the two units meet each other, including needing living spaces touching for the entire length. This issue is something that is best addressed in the Section 1 definition, not as part of the garage ordinance, as the issue isn't coming from the garage ordinance.

The Chair noted that anything that lacks clarity in the ordinance, or that people are interpreting in unexpected ways, needs to be looked at, and should be fixed separately.

The Chair of the Committee called for a motion to close the public hearing which was approved unanimously. She then brought the discussion back into committee.

Topics of discussion in Committee included the following:

70-foot Exemption

Concern was raised that the 70-foot exemption would create an incentive to build snout houses further back on long, narrow properties. The Committee took a straw poll and the majority (5-3) did not have a problem with the exemption.

Definition of two family attached

It was asked if the clause that Mr. Sangiolo was concerned about has reopened what was remembered as the "linguini" problem. That is, skinny odd sections of living area that are not useful but have been required to meet the interpretation of this definition. By taking out that particular clause from the garage ordinance, has a problem that the Council had gotten past been reopened?

Commissioner Lojek noted that a former council was fighting with the problem of two-family houses that appeared as though they were two single-family houses attached by some tenuous attachment. The rule was developed so that garages couldn't be the attaching point of a two-family home. The purpose behind this was to have the building look like a singular building that had two units in it, as opposed to two single-family houses that had a couple of little garages between them. Linguini simply referred to a tenuous attachment between the two units, as if it were a piece of linguini between the two. The point is that it has to be substantially connected unit to unit. You cannot just have the connection be garage to garage between two units that are essentially side by side buildings.

It was stated that the definition in 1.5.1B warrants a closer look by itself as it requires that there be a shared wall the full height of one or both of the units, or a clear separation horizontally between units, but in that definition there's no mention that you can't have a garage be part of the building.

Attached Versus Detached Garages

There was a question about the new minimum distant requirement between the main house and detached garage. If a garage is attached it must meet the setback requirements of the primary structure; if it's a true accessory structure it can get within five feet of a lot line by right. In the past there was gaming that went on that the Commissioner of Inspectional Services was concerned about, so he proposed setting a minimum distance between the structures.

Accessory Dwelling Units above a Garage

The current ordinance provides for a maximum by-right garage of 700 square feet except by special permit which is going to stay the same. There is no required minimum size except that a car must fit in it, so a small single-bay garage would have to be about 300 square feet. It is true that a half story above that by itself would not allow for the minimum 250 square feet for an ADU, or even allow for a staircase to be added within it, however, that doesn't take into account the potential for adding to the footprint of the building. To create an ADU on top of a small garage you are going to have to create vertical space by adding square footage to the garage to get the minimum space required above. This is the case in our current ordinance. If someone has a tiny garage, they have to add to it in order to put something on top of it.

Currently, the accessory building section limits the height for all accessory buildings, which includes garages, to one and a half stories. It is certainly worth looking at ways to go above the one and a half stories in order to encourage accessory units, but it should be done separately outside of this garage ordinance.

The committee felt that the accessory dwelling unit issue needed additional discussion but should not be taken up as part of the garage ordinance at this time. The garage ordinance must be passed by April 1st, otherwise ordinance A-78 will become effective (unless repealed) and that is not the intent of the committee. There was initial consensus that the garage ordinance should be moved forward.

Garage Placement

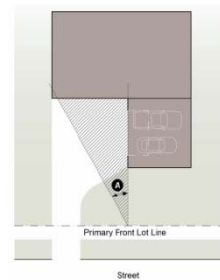
A councilor expressed a preference that the garage be two feet or more behind the house, but stated that they can live with the 10 feet so didn't want to see it go any further.

More than Three Cars

To the question of why to even allow more than three cars on a property. It was noted that 10 years ago or more, there was a very large home on a large property where the owner wanted to have a five-car garage. He had many special antique cars stored in a warehouse and he wanted to be able to house some of those cars at his home. He was given a special permit to allow him to have a five-car garage on his property. There have been situations where people have been given permission to have more than three cars.

Side Facing Garages

It was asked what the 60° measurement in the side facing garage illustration meant. It is important to clarify when a garage is visually a front-facing garage.



Side-Facing Garage Door Location	min	max
① Angle allowed within (angle from Primary Front Lot Line)	60 degrees	90 degrees

Two Garages by Right or by Special Permit

Currently special permits can be requested for garages over 700 square feet, for more than three cars, or for an additional garage unit. It was asked why this ordinance includes allowing two garages on one property by right and not by special permit?

It was also noted that there had been some discussion of allowing by special permit more than two cars per unit at a two-family home, and more than two garages at a single family home, but where and how would all of these cars and garages fit on a property?

Implementation Date

It was noted that the Planning Department has recommended that the ordinance not be implemented retroactively and should have full implementation by April 1. A councilor questioned if an implementation date of April 1 was enough time for the industry to understand the changes. It was stated that usually when changes are made to the building code, the new code goes into effect on January 1 of the coming year and is optional for six months in order to give people time to understand the changes and get through a design cycle. The committee should keep in mind what happened when changes were approved in 2016. People were caught in the middle of a project that was well into design, but not yet permitted. This should not be repeated.

Corner Lots

There was a great deal of confusion regarding the corner lot issue and it was stated by several Councilors that it might be worth having one more meeting to discuss the issue.

In response Ms. Caira stated that the currently proposed ordinance does not regulate the overall width of garages that are facing the secondary frontage on corner lots. The Planning Department discussed this quite a bit internally and at previous committee meetings. Corner lots are subject to two front lot line setbacks so it doesn't leave a whole lot of space to work with on corner lots. The options for where a garage can be placed on a corner lot are going to be more limited if you're controlling both of the street frontages as if they were primary front lot lines. The secondary frontage is often narrower, so it's going to be difficult to have a garage that's facing the secondary frontage meet the width requirements. Ideally the ordinance is addressing the street presence on both streets and on the corner lot you're not going to get the overwhelming sense of house after house with garages that are really prominent, it would be

limited to the corners. Once the corner lot setbacks were reviewed it was realized that garages wouldn't dominate the secondary streets like they would if all of the houses were unregulated.

Garages facing the secondary frontage are considered side facing garages. They are not the side facing garages that project to the front of the house so they don't need the fenestration, but they have to comply with the 9-foot single garage door and 16-foot double door garage requirements. They don't have a provision regulating the overall width of the garage, but they are restricted to the door sizes. Ms. Caira noted that she could put together a memo explaining this for the next meeting.

It was stated by a Councilor that the garage facing the secondary street should not have to comply with the same setback as a garage facing the primary street. Ms. Caira explained that current zoning ordinances require them to be treated the same, and that a change to a setback requirement on the secondary frontage should be taken up in a separate discussion as part of zoning reform.

The Use of the Word Automobile

A Councilor asked that the word automobile to define the use of a garage be eliminated from the ordinance. Garages are used for more than just automobiles. Planning staff said they will consider alternate language.

One More Meeting

There was consensus that the committee should have one more meeting to be 100% confident about this ordinance.

A motion to hold this item for one more session, which will be February, 8, 2021, was approved unanimously. The Planning and Development board also voted to hold the item.

#41-21 Zoning Amendments for Marijuana Establishments

THE DIRECTOR OF PLANNING AND DEVELOPMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.10, to amend the regulations for marijuana establishments to be consistent with the regulations put forth by the Cannabis Control Commission on January 8, 2021.

Zoning & Planning Held in Committee 8-0 and set public hearing date for March 8, 2021

The Chair of the Zoning & Planning Committee stated that the discussion at this meeting would be limited to an introduction to new regulations from the state regarding marijuana zoning and the changes that must be made to Newton's Ordinances. She then asked Ms. Caira from the Planning Department to make a presentation (attached).

Ms. Caira noted that the City Council originally adopted AN ordinance in December 2018 to allow for adult use of marijuana in line with the state's regulations at that time. On January 8th of this year, the Cannabis Control Commission filed new regulations for both medical and adult use marijuana. These regulations require a number of changes to the City Ordinances to make them consistent with these regulations, and to also create zoning districts for two new marijuana license types.

Most of the required changes are relatively minor including clarifications on how some things are measured. There are some changes to make the regulation of medical marijuana treatment centers consistent with how marijuana retailers are treated, particularly around the uses that they need to be buffered from.

There are two new license types: Marijuana Courier and Marijuana Delivery Operator. These new license types will allow for the delivery of adult use marijuana where today only delivery of medical marijuana is allowed.

For a period of three years, the Marijuana Courier license will be limited to applicants that must qualify under the state's social equity and economic empowerment programs. The couriers will partner with existing retailers and deliver from the retailer to their customers. Couriers may not store the products on their physical site at any point in time.

Marijuana Delivery Operators, however, may buy wholesale and store products on site in a warehouse. They may rebrand under their own brand, and then deliver directly to customers. Delivery operators are not considered retailers, and therefore not subject to the cap on retail licenses.

Things being considered by the Planning Department in order to make recommendations for appropriate zoning districts for these two new license types include looking at similar uses currently in our zoning ordinance. These include marijuana transporter, which only allows for the transport of marijuana, not for the actual delivery to customers. This is limited currently to our manufacturing districts. There is also the wholesale business or storage facility which is limited to the business 2, mixed use 1, manufacturing, and limited manufacturing districts. It does have some standards and limitations that go along with it, sometimes by right and sometimes by special permit.

Other factors that are being considered for appropriate locations is that these users will have a high, however predictable, parking need. A courier will need primarily a parking area and some small office space. The delivery operator will need parking, as well as office space and a small warehouse. From talking to some of the applicants it is understood that they don't need a very large warehouse. Unlike the retailers, where fluctuations in parking demand and accommodating for a peak that is somewhat unknown, couriers and delivery operators will be predictable, the number of drivers will dictate the parking needs. There won't be any public

interaction or access on site as they cannot have a storefront at all. The delivery operator will have security needs around the warehouse which are different than many other typical warehouse uses. Because of the parking demand and the security concerns, this doesn't seem like a use that is appropriate for village centers and some of the commercial districts where we are looking for a vibrant, pedestrian-oriented mix of uses, particularly at the ground level. However, manufacturing districts are somewhat limited across the city. One thing to consider is that these will be social equity and economic empowerment applicants. Do we want to open up to some of our other commercial or mixed use districts to allow more opportunity?

Ms. Caira presented a map for reference that showed all of the zoning districts for all of the existing marijuana uses, as well as the locations where the Mayor has signed at least a provisional host community agreement for retailers, and one research facility. Medical marijuana as well as retailers are allowed in the Business 2, Business 4, Business 5, and Mixed Use 1 Districts, which are shaded red orange and light blue on the map. The testing lab, cultivation, manufacturing, research, transporter, etc. that are allowed in the manufacturing district are the darker purple districts on the map. Independent testing labs and research facilities are allowed in manufacturing, as well as limited manufacturing, which is the light purple down at Wells Avenue.

The Planning Department has a couple of questions for the Committee. Should we consider commercial or mixed use zones for courier or delivery operators, and could couriers potentially be allowed by right, as there will never be any marijuana products stored on site; only vehicles will be stored on site.

At the next meeting a redline version of the ordinance will be presented that shows all of the changes needed to be consistent with the state regulations, as well as some recommendations around zoning districts. The Department would like to set a public hearing date for the first meeting in March.

Comments and Questions from the Committee:

Number of businesses

Are these new uses in addition to the eight that we are planning for? Ms. Caira responded that they are in addition TO the eight as they are not considered retailers. They are treated separately.

Couriers

Marijuana Couriers should be kept out of the village centers or the commercial areas which we want to be vibrant and bring people in. These new uses seem to have someone coming to work and then driving away in a truck, so they are not adding to the two the vitality of the streetscape.

It was felt that that people will like having marijuana couriers because in Colorado, once they had delivery options, it reduced the foot traffic into the marijuana shops by 50%. A lot of neighbors already complain about the traffic, so that's a plus.

Since Couriers are dealing with small amounts of product, would the Couriers also be able to be bicycle couriers? Ms Caira responded that she suspects not. We can look into that, but the Cannabis Control Commission has pretty strict regulations around the security of the product and the money inside the vehicle, and how much product how much money they can carry at one time how that's stored and locked within the vehicle, so I'm guessing bicycle delivery is not an option at this time but we can follow up on that.

Delivery Operators

Delivery operators will be adding additional storage of marijuana in warehouses in the city beyond the eight marijuana shops that voters approved. There will be pushback from the public as a lot of residents don't want any marijuana in the city, let alone adding to what we have.

Are these new categories in direct competition with the retail stores? Ms. Caira responded that the delivery operators are, but the couriers will partner with retail stores to undertake delivery for the retailers. The delivery operators are acting independently - buying wholesale and delivering directly to customers. There was a lawsuit brought by an organization representing a number of the brick and mortar retailers against this, but it was withdrawn within just a few days of it being filed. When the state was debating these regulations, particularly in limiting it to social equity and economic empowerment applicants, it means that many of these retailers cannot do their own delivery.

This new delivery operator is creating competition. Will they be allowed to undercut the price because there's no brick and mortar operation? Ms. Caira stated that she doesn't know if the state has any say on how prices are set.

Newton has decided to have eight retailers, and now who knows how many more we would have because all they need is a warehouse and some drivers and all of a sudden it's a new retail operation. Ms. Caira responded that she wanted to make Councilors aware that regardless of what the City does far as zoning, the City can't restrict deliveries into Newton. Delivery operators who are setting up in surrounding communities will still be competing with the retailers located within Newton.

It was stated that the City already has a lot of problems with Amazon and other package delivery services. Trucks stop and block streets. Is this going to increase with the addition of marijuana delivery operators? Having more delivery vehicles on our streets, when there's already so many, could cause problems.

What are the Options?

What are the options? What is mandated and what's flexible? Ms. Caira responded that Marie Lawler from the Law Department has been spending time on this, and the short answer is that the City is required to do just about all of this. The City does not have an option to not allow the delivery operator or the courier as we are a community that allows for retailers.

The Public Hearing

The public hearing must remain on topic and must not get into rehashing the old debate, and votes, and referendum we had about having the eight locations. It must be controlled and make it about actually what the state is requiring. Also a few residents would like to see by appointment only for all marijuana shops. Will we be able to discuss this in the public comment and at our next meeting?

Location

There are safety and security issues, and unfortunately most of the places that they can go are on the north side of the city.

Will these two new types of licenses be allowed just in manufacturing zones? The zoning map shows that almost all our manufacturing zones are in a very small section of Nonantum. Ms. Caira responded that currently there is no zoning for them and it will be up to the Committee to decide which zoning districts they should be in.

It is important to create opportunities to create jobs during this very difficult time and making it easier for businesses to do business is important, but all the marijuana establishments should not be in just one part of the city. They should be spread around.

It was asked what kind of physical space would be needed? Would it be like a taxi service where there'd be a fleet of vehicles that would be in one place that would deliver the marijuana, or would it be more like an Uber type business where independent drivers would deliver? Ms. Caira responded that we're still doing some research and learning more about this new type of applicant. She spoke with a similar operation in Arizona who is applying. They're looking for about 1000 square feet of space in total, that would house their office and warehouse and have about 10 parking spaces. They anticipate that drivers would come and go from the site about three times per day. It is unlikely that it will operate in an Uber fashion where anyone can sign up and use their own personal vehicle as they are considered independent contractors, and they would need to be employees of the business. The state has quite a few regulations regarding the actual operations, and Marie Lawlor can speak to some of those questions at the next meeting.

These types of businesses could be anywhere as long as there's enough space for the cars. However, the delivery cars should not take over village centers or any mixed use retail areas. The Planning Department should come back with some advice about where are to put the

delivery cars. Could the cars be off site and only come in when called to make a delivery? What kinds of arrangements could be made to find a place for the cars that's not right in the village center.

A Councilor felt comfortable having a by-right operation where there's no storage of product in commercial districts, and maybe it's allowed by special permit in mixed use districts. It's dependent upon access to vehicles, and how that might impact the locality because most village centers will not accommodate something like this happily. It was felt that these businesses should not supplant other more desirable businesses.

Social equity and economic empowerment program applicants

A Councilor felt that the sooner we make these changes the better because the three-year restricted period under which all of the licenses have to go to social equity or economic empowerment program applicants starts with the first license granted statewide not just within the City of Newton. The sooner these changes are approved, the more likely it is that we will get those applicants here.

A motion was made to hold the public hearing at the first meeting in March and to Hold this item in Committee which was approved unanimously.

Chair's Note: The Zoning & Planning Committee will receive a presentation and report from Community Engagement Planner Nevena Pilipovic-Wengler on the Community Engagement Event held in December. The Committee will also look ahead to the Zoning work plan for 2021.

The Chair of the Zoning & Planning Committee introduced community engagement planner Nevena Pilipovic-Wengler to present information gathered at the December community meetings (attached). She noted that the community engagement events in December provided a temperature check on what the Newton community is thinking about in terms of hopes, concerns, and questions about zoning redesign.

The information gathered comes from: the two virtual zoom events on December 2 and December 3; questions submitted through the RSVP form for those events; a survey; and meetings with as many folks as possible. All of this information, the raw data, is available on the zoning design site. Ms. Pilipovic-Wengler also has a list of additional groups that she hopes to make contact with and she heartily welcomes tips and suggestions on who else to meet with.

She stated that there was a lot of information, including a lot of fantastic nuanced opinions, questions, insights and worries. The Planning Department found it easiest, and also most helpful, to organize all of the feedback around the topics of process, housing, environmental sustainability, financial sustainability, transportation, neighborhood context, and other.

Each section of the presentation includes the rough number of comments and questions that were included under the topic.

In terms of Process (~283 responses), the main questions were:

- Why is the city doing a complete overhaul of the zoning code versus incremental change;
- Why is zoning redesign needed;
- Can there be a referendum;. and
- How is the city considering a socio economic equity lens?

Housing was also a very popular topic (~283 responses):

- How to address current tear downs;
- How to truly diversify and increase affordability of Newton's housing supply (and simultaneously how is the city defining affordable; and
- How are we considering Universal Design for accessibility needs?
- As well as a wide array of questions and opinions on single family for schools and families zoning ranging from people feeling very concerned about what increased density could do to their neighborhood and city resources - to people who felt that building more multifamily housing is essential to increasing the diversity, housing supply, and cost

Neighborhood Context (~73 responses):

- How will a design review be incorporated;
- How will increased density affect the way neighborhoods currently feel and function; and
- What are the pros and cons of floor area ratio, also known as FAR versus form based zoning?.

Transportation (~61 responses):

- People were asking how the MBTA's updated routes, schedules, and budgets in the context of the pandemic are being considered for transit oriented development; and
- Will allowing more multifamily by right increase road and parking congestion and pollution?

Environmental Sustainability (~58 responses):

- How will a new zoning ordinance support the Climate Action Plan; and
- How can the city balance housing goals, while also preserving open space and tree canopy?

Financial sustainability (~43 responses).

- Just how will the draft zoning ordinances impact real estate values, property taxes, city revenues, the city budget, and businesses?

Other (~761 responses)

- A topic that bubbled up was education. If, for example, there was more multifamily zoning by right, will that result in increased density, and will it result in increased school enrollment to such an extent that it could actually exceed capacity?
- Questions included: how is historic preservation being considered as well what are the processes for non-conforming properties?

In terms of community Engagement ideas, the Planning Department is now soliciting people's ideas and reactions on ways to conduct community engagement for future zoning redesign. There is particular interest in email updates, and small meeting breakouts.

Another interesting part of the survey was the demographics. It was not a scientific survey as there were only 343 people who filled it out, but those are 343 people who accessed the zoning redesign emails and events.

The survey data was compared to demographic data from the American Community Survey from the Census Bureau for 2019. The data shows us that renters voices are missing. In the age breakdown, voices from those aged 15 to 34 and those 85 and older were missing. In terms of racial composition did not meet the percentages for all of the communities of color in Newton.

In terms of Wards, there was good representation from Wards two through six, but more input is needed from Wards One, Seven, and Eight. The survey offered an option for people who don't live in Newton, as the Planning Department is also trying to get insight and perspective from those who work in Newton but don't live here.

The information gathered about Community Engagement breaks down into two categories:

Things that can be addressed today. We heard that we need a better organized website. We are working closely with staff on improving sections of the website. We heard that we need more accessible information, both for newcomers who have never heard of the topic and want to get involved, as well as for people who want to stay updated. There needs to be more clarity around the wonky language that we have on the zoning redesign website. To address this we are drafting a zoning redesign booklet inspired by the Center for Urban Pedagogies "What is Zoning Guidebook. Planning also decided to begin monthly newsletters which we began in December. We also heard that we need to increase user engagement, and just had a meeting with Newton North High School's Next Gen Voices' working group on zoning redesign. There is conversation about pulling in students from Newton South and building relationships with young families, especially those new to the public school system.

Things to be considered for the future. We heard that staff needs to provide more transparency around what data and voices of experts are influencing zoning redesign work. We heard that people need to better understand issues with the current ordinance and why we're taking this project on in the first place. We heard that people want more space for virtual discussions around zoning redesign based on where they live, work and study. And we heard that we need to practice equitable community engagement and simultaneously utilize lenses of equity across race, class, ability, housing tenure, age, and more for research and analysis.

Senior Planner Zach LeMel noted that it became apparent that moving forward in 2021, and beyond, there needs to be an updated planning framework. One that begins with clearly articulating why the city is undertaking zoning redesign up and effectively engages the community in a transparent and inclusive manner. This makes a lot of sense as a lot of faces within the planning department are relatively new, and this work has been going on for over a decade. There has been a lot of starts and stops along the way, and so it makes sense that there are questions around why this is being done.

The framework that is being put forward was provided in tonight's Planning Memo. Planning staff worked closely with the Chair and Vice Chair to put it together. It is a work in progress and we look forward to comments so we can refine and improve it going forward.

At the December meeting, and in conversation at the first meeting in January, the committee discussed needing to temporarily set aside the work that was done in 2020 on Article 3 - Residential Districts. At the time, there was a clear understanding that the committee would be coming back to it, but that additional analysis and additional engagement was clearly needed.

As this process moves into 2021 the following components will be undertaken:

- An up dated planning framework
- Articulation of why Newton is undertaking zoning redesign
- Understanding of the current zoning ordinance and the 2018 draft
- What zoning can and cannot do
- Lay out the tools for effectively engaging with the community.

The Planning Department will be pulling together the work to date, which was extensive in 2020, into a summary memo and an annotated draft zoning text of Article 3 that will include the questions, comments, and concerns that have been articulated, as well as additional analysis needed. It will highlight the areas of consensus, and include an updated draft zoning map which will include the four districts that were drafted in 2018 and discussed in the spring of 2020. This material will be provided in advance of the February 22 meeting for discussion.

The Planning Department has learned over the past year from the community and the Zoning & Planning Committee is that the article by article approach has had some challenges. There has

been some confusion and frustration when talking about housing opportunity. Were we discussing residential neighborhoods or areas adjacent to village centers, or village centers themselves? When goals apply across multiple articles, which articles are being discussed? It may be better to try reviewing zoning in terms of geographies. This concept was discussed at the December Zoning & Planning Committee meeting where there was support for looking at village centers, transit nodes, and the areas immediately adjacent to village centers, particularly because these are areas that have the greatest opportunity for impact and growth.

Using a geography based approach, the Planning Department proposes the following 4 groups:

- Village centers and transit nodes
- Corridors (term used in the Comprehensive Plan)
- Single purpose districts
- Neighborhoods

Corridors can be business corridors; commercial corridors like Route 9; visual corridors like Commonwealth Ave or Watertown Street; and passive use corridors such as the Sudbury aqueduct.

Single purpose districts include institutions like Newton-Wellesley hospital; schools; industrial or business areas like Wells Avenue; or recreational areas, such as golf courses.

Neighborhoods are where the most time has been focused within the residential district discussions, so we will be returning to that at a later date.

Each of the geographies can be broken down to address what was heard at the events as well as to include the incredible amount of work that's been done in our guiding plans, policies and documents including:

- Sustainability and climate
- Housing opportunity
- Economic development
- Transportation
- Arts, our culture, and institutions
- Development process
- Neighborhood context

The Planning Department is considering a five phased approach for each of the geographies:

Phase one: Organize key data and analysis

Phase two: Gather community input

Phase three: conduct research

Phase four: test solutions with the community

Phase five: finalize solutions

The five phases in relation to the village center and transit node geography, might look like this:

In Phase one, organizing our data and analysis will be accomplished by looking at what we have, the documents and the work that has already been done. The Climate Action Plan from 2019 might be used as it includes a goal to amend zoning so that it facilitates housing opportunity for transit and village centers. This is also found in other plans including the Economic Development Plan. Recently built developments can be looked at to see if they are aligning with the plan goals. Finally incorporating recent legislation like Housing Choice into the analysis.

The second phase will be to gather community input through events like; neighborhood walks; small focus group meetings; pop up events; social media; and structured debates.

The third phase will focus on conducting research. The Planning Department will conduct the necessary research and test proposals before bringing them to the Zoning & Planning Committee. An example of this type of research would be to look at what building types provide the housing necessary to support local businesses.

The fourth phase will be to test solutions with the community. During this phase the Planning Department will present potential changes to the community for discussion, to determine the impact of the change and whether the change is a priority, and to discuss trade-offs with competing proposals.

The final phase will include the Zoning & Planning Committee meetings with guest speakers, conversations in a Committee of the Whole, and public hearings.

With a clearly defined scope of work the Planning Department can bring in consultants, work with boards and commissions, work with local experts, and work with groups similar to the building professional group which has worked so successfully on the garage ordinance.

Committee comments

One councilor felt that there was a disconnect between what was heard at the beginning of the conversation about what people were saying in the various breakout rooms about different problems and this geographic approach. We have successfully dealt with garages which is not a geographically designed solution. Concern was raised about how well the geographic function would work. It is a process that seems to be moving ahead beyond the Council, and somehow bringing something through the Planning Department lens, even though it is not the Planning Department's proposal, it's being organized and orchestrated by the department with a great deal of time and effort. What has been created with the best of intentions is a process that isn't going to get us very far. There needs to be a sense of the specifics that need to be solved

rather than to go out and invest a huge amount of time and energy around a process which has not yet got clarity to it, and is going to produce proposals which are not fully understood. Concerns that people have talked about constantly like seeing the existing smaller houses in the city being torn down and replaced don't seem to be addressed by this approach. This isn't a productive way for us to spend our time. We've spent almost a year and we didn't find that productive and now we're about to go down the same path..

I think that it's a good idea that we take a step back and we examine what has worked and how we best move forward. I agree that it's been a long slog in the residential discussion, because the residential discussion is really where the most controversy has come from and will continue to come from because people are genuinely concerned with their neighborhoods, their own homes, their neighbors homes and what their neighborhoods can and should look like. We need to deal with the issue of tear downs of smaller homes. The reason that tear downs happen now is that we allow them to happen, our zoning doesn't discourage it from happening. There is a balance between what zoning allows and what economics dictate.

One of the things that I was probably not surprised about is that 91% of the people who participated in the survey were homeowners as opposed to renters, and that the lion's share are in the 65 to 74 year age bracket. We had almost nobody under age 35 respond. I think that we do need to reach out through the schools to get younger families involved and find out what their interests are, because the people who have responded have lived in their homes for 20 to 40 years and we need to hear from people who will spend more time in the future in their homes, because every generation tweaks it style of living a little bit. We don't live in the same way that our parents did. We don't have as many children as our parents did, and our children are living slightly differently than we did. We need to find out what those trends are.

It's an extremely ambitious project that the Planning Department has laid out and how does this get done? Do we bring it in from the community, or do we bring it out from the Zoning & Planning Committee. What I like about what I have heard is the back and forth between the Planning Department, the Zoning & Planning Committee, and the community. We will have to be careful about how it all works together, and to make sure that communication goes back and forth between the community and the committee.

This could be very exciting. I hope everyone will keep an open mind. This is an extraordinarily complex, multifaceted, five dimensional problem that we're trying to solve here. I don't know that there's any way to simplify what we're trying to do. It's not like taking the garage ordinance and making amendments to the language from the previous ordinance to address one thing. It's much more than that.

In organizing it geographically I think we talked a lot about going to village centers, and then to the inner core of residential areas as a next step. But as we move through it, we need to be able to define our objectives, and look at how one set of objectives meets another set of objectives,

sometimes things are very much in concert, like are our sustainability goals matched by our housing goals. We talk a lot about clustering higher density development in and around our village centers and commercial corridors, where there's public transportation and making those parts of our community as walkable as possible. All of that fits together pretty nicely but on the other hand, we want to prevent tear downs. We have to qualify what's a tear down we want to prevent versus one that is necessary in order to meet another goal. If we're trying to limit the size of the building but at the same time trying to add units of housing where it makes sense, where do we draw those lines? These are the kinds of analyses we need to be able to do. None of it is particularly simple.

I think what we are seeing is that to do it well is going to take a long time. We are trying to do this, including all of our thinking, in the public realm so that everybody can participate who wants to. It's just not simple. I hope folks will look at this process critically, but with an open mind. We need to start somewhere, or restart somewhere.

We have a process under state law for changing zoning: you introduce a proposal; you have a public hearing like we had tonight; and then we vote on it as a Council. That's the basic legislative model.

We have not had a discussion in committee about whether form based codes are where we should be spending our time, as opposed to modifying our current ordinance. We've had these conversations over and over again but we've not really had a formal conversation in committee. There's another focus that we could take like we did with the garages, which is to focus on a specific problem. In my experience over the years in the council we have done well when we have taken on a specific problem and tried to respond to it. Now we're going to a whole other process we're trying to involve people in something that hasn't yet even been developed and somehow have it emerge, and then returned to the council as a fully blown technically correct option, which I have grave concerns about.

I'm not necessarily open to the idea that we have to do it with a form based code as opposed to some amendments to our current ordinance. So I guess the alternative framework I'm going to suggest is that we consider as a committee is not this global problem of global redesign, but to take a discrete problem and try and work on it and see if we can come to a solution like we did with the garage ordinance.

This sounds to like an expensive, time consuming exercise where the Planning Department, who I know is strapped for time and resources, is not going to be successful.

I think it's important that we keep the decisions in the Council, recognize that it is our responsibility get the Planning Department to do the staff work for us, which is their enormously helpful function, and then see where we go forward.

This is not form based code, the planning department has made clear it is a hybrid and has explained to us which components are form based - a different approach from what we've done in the past, and what components are not.

What I would like to do is to be able to evaluate each measure on its own merits and each tool on its own merits in terms of what we're trying to achieve. Some of those form based tools were presented by the previous staff in 2018 expressly for the purpose of addressing what kind of formula do we need in order to be contextual within a neighborhood and at the same time limit the incentive for tearing down because you're limiting the volume of building that you can have.

What we're working on is how we can achieve sustainable development. And I want to remind folks that not that many people are happy with our current zoning and it has been an effort of almost 100 years. I think we do need broad change, but I will keep an open mind on how we approach that and listen to all voices. I am very concerned that we have not had any participation, or very little participation, of people under 35, who will be inheriting the city from us.

Recently we lost quite a bit of public transportation and bus routes. I think while we go forward with zoning we have to figure this in to the equation of what we're doing.

Ms. Caira from the Planning Department noted that the intent is not that this is a Planning led effort, and that the Planning Department is doing this work outside of committee or outside of the public. It's truly meant to be driven by the discussions in committee and the community engagement. Spending time identifying the problems upfront, and then looking at what the possible solutions are will entail a lot of time with this committee. It's going to include evaluating the existing zoning, how it relates to any of the problems identified, and meeting to review the data. What alternatives do we need to look at in order to ensure we're solving the problem? We expect that this will involve conversations including is a form-based solution the right solution? The solution will vary depending on the problem, and the area. The Planning Department is coming into this with an open mind. We have a draft that we certainly want to use and we want to evaluate, but we want it to be driven by the conversations from this committee and the conversations we have with the community and that back and forth.

The Chair of the Zoning & Planning Committee noted that the hour was late and that the committee will continue this discussion in more detail at the next meeting. We will issue an updated calendar of items mostly unrelated to zoning redesign through June, but are not ready to put a calendar together for the year until we decide as a committee on a path forward.

A motion to adjourn was approved unanimously

**Respectfully Submitted,
Deborah J. Crossley, Chair**