

**CITY OF NEWTON  
LAW DEPARTMENT MEMORANDUM**

DATE: October 8, 2021  
TO: Zoning and Planning Committee – All Members  
FROM: Andrew S. Lee, Assistant City Solicitor  
RE: Demolition Delay – Proposed Amendments – Dkt. No. 29-20(2)  
Updated Draft

On September 17, 2021, the Historic Ordinance working group reconvened to identify the outstanding items related to the proposed amendments to the Demolition Delay Ordinance. City Councilors Susan Albright, Lisle Baker, Deborah Crossley and Andrea Kelly, Newton Historic Commission Chair Peter Dimond, and Newton Historic Commissioner Doug Cornelius attended. Specifically, the working group discussed the jurisdictional age requirement, historical context and appeals.

**1. Jurisdictional Age Requirement**

The working group agreed that further discussion in the Zoning and Planning (“ZAP”) Committee is required for ZAP’s recommendation for the jurisdictional age requirement. Under the current Demolition Delay Ordinance, a property is subject to review if it is in whole or in part 50 years or older. As discussed at the ZAP meetings held on June 28, 2021 and July 26, 2021, the ZAP Committee has narrowed the options to: 1. Requiring Demolition Delay review if a property is 75 years or older; or 2. Retaining the 50 year jurisdictional requirement.

Attached to this memorandum is the clean version and redlined version of the proposed amendments to the Demolition Delay Ordinance (Attachments A and B, respectively). The draft proposal has been updated from the last version circulated on July 23, 2021. The update is limited to changing the proposed **Section 22-53(a)(1)** as follows: “No demolition permit shall be issued by the commissioner except in conformity with the provisions of this Sec. 22-53, as well as any other applicable law, statute, ordinance or regulation, for any building or structure that...**is whole or in part \_\_\_\_\_ or more years old.**” Additionally, the original Demolition Delay Ordinance is attached as Attachment C, for your convenience.

**2. Historical Context**

Under the current Demolition Delay Ordinance, a building is Historically Significant if it is determined to be “historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures...” At the ZAP meetings held on June 28, 2021 and July 26, 2021, the ZAP Committee discussed whether the foregoing criteria required clarifying revisions. On June 28, 2021, the ZAP Committee took a straw vote on the issue with 5 in favor of leaving the language unchanged and 3 in favor of including clarifying language.

At the September 17, 2021 meeting, the working group discussed other measures that can be taken to provide clarification for findings of historically significant and preferably preserved on the basis that a building is historically or architecturally important in the context of a group of buildings.

It was determined that a recommendation from staff that a building is historically significant in the context of a group of buildings would explicitly identify how such context is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder. Additionally, if the basis of the Newton Historical Commission's determination that a building is preferably preserved is in whole or in part supported by the building in the context of a group of buildings, the findings will identify how such context is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder.

### **3. Appeal**

Currently and under the proposed amendments to the Demolition Delay Ordinance, an applicant aggrieved by a preferably preserved determination may appeal the Newton Historic Commission's decision to the Superior Court. The working group discussed the option of an administrative appeal process. The general consensus among the working group was that the effect of such an amendment requires a thorough analysis and further discussion that may be best addressed through a separate docket item.