



Zoning & Planning Committee Report

Part 1

City of Newton In City Council

Thursday, December 16, 2021

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

Also Present: Councilors Lipof, Norton, Malakie, Humphrey, Oliver, Lucas, Kalis, Kelley and Greenberg

City Staff: Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee, Chief Operating Officer Jonathan Yeo and Chief of Long Range Planning Zachery LeMel

Utile Consultants: Timothy Love, Will Cohen and Lisa Hollywood

Planning and Development Board: Chair Peter Doeringer, Barney Heath, Sudha Maheshwari, Chris Steele and Lee Breckenridge

Others Present: NewTV

#361-21 Appointment of Sonya McKnight to the Conservation Commission

HER HONOR THE MAYOR appointing SONIA MCKNIGHT, 38 Woodward Street, Newton, as an alternate member of the CONSERVATION COMMISSION for a term to expire October 4, 2024. (60 days: 12/03/21)

Action: Zoning & Planning Approved 6-0, Councilors Ryan and Krintzman not voting

Note: Ms. McKnight joined the Committee for discussion of her appointment to the Conservation Commission.

The Chair invited Ms. McKnight to join the Committee to discuss her interest in serving as an alternate member of the Conservation Commission. Ms. McKnight stated that she always had a passion for the outdoors and environment. She taught chemistry, AP chemistry, environmental science and was an Environmental club advisor and Envirothon coach at the Dexter-Southfield School and Waltham public schools and is the Treasurer for the Newton Tree Conservancy. Ms. McKnight stated that she has attended several Conservation Commission meetings and looks forward to serving.

Committee members thanked Ms. McKnight for her willingness to serve on the Conservation Commission. Councilor Albright moved approval and the Committee voted in favor 6-0, Councilors Ryan and Krintzman not voting.

#412-21 Appointment of Kevin McCormick to the Planning & Development Board
HER HONOR THE MAYOR appointing Kevin McCormick, 52 Madison Avenue, Newtonville, as a full member of the PLANNING & DEVELOPMENT BOARD for a term to expire on February 1, 2026. (60 days: 01/14/22)

Action: Zoning & Planning Approved 6-0, Councilors Ryan and Krintzman not voting

Note: Mr. McCormick did not join the Committee for discussion of his appointment to the Planning & Development Board.

Chair Crossley stated that Mr. McCormick has been an active alternate member of the Planning & Development Board and is well known to Committee members.

Committee Clerk Delaney explained that a clerical mistake was made on the City Council Actions indicating that Mr. McCormick's appointment was approved by the City Council when in fact he was not. Mr. McCormick received a letter of appointment and has signed the oath book.

Committee members stated they are happy to support Mr. McCormick's appointment as a full member of the Planning & Development Board.

Councilor Albright moved approval and the Committee voted in favor 6-0, Councilors Ryan and Krintzman not voting.

#390-21 Requesting amendments to Zoning Ordinance Chapter 30, Sections 4.4 and 6.4
THE DIRECTOR OF PLANNING requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.4 to allow for veterinary uses in the Business 4 zoning district.

Zoning & Planning Held 8-0 on 11/18/21, Public Hearing Scheduled for December 16, 2021

Action: Zoning & Planning Approved allowing veterinary uses without boarding by-right in a Business 4 zoning district, 6-2, Councilors Wright and Baker opposed. Public Hearing Closed 12/16/21

Note: Chief of Long Range Planning Zachery LeMel joined the Committee for discussion on this item.

Mr. LeMel presented a summary of the proposed amendment that would allow veterinary hospitals in the business 4 zoning district. (PowerPoint attached).

Mr. LeMel stated that no animal services or veterinary clinics are currently allowed in the business 4 (BU4) zoning district. Prior to 1996, veterinary hospitals were limited to manufacturing zones. There was an amendment in 1996, due to increased pet ownership increasing demand for veterinary uses, to expand the number of districts that allowed veterinary hospitals, which have been allowed by special permit in some Business and Mixed Use 1 zoning districts. (The Mixed Use district was only

created in 2012). Veterinary uses remain by-right in the manufacturing and limited manufacturing districts. The BU4 zoning district was not included in 1996 because only one area in the City was zoned BU4 at the time, which was for an assisted living facility. Since 1996, the city has rezoned other lands to BU4, normally as part of a rezoning to accommodate a special permit project. These sites tend to be the larger campus style developments and are subject to the controls conditioned under the special permit. Veterinary hospitals would be compatible with the BU4 zones that exist today which are large and are buffered from adjacent neighborhoods. Allowing veterinary hospitals would provide a needed service and allow for flexibility in filling commercial spaces as retailers struggle. Existing veterinary hospitals are located adjacent to residential and commercial uses.

On November 18, 2021, the Planning Department proposed an amendment to allow veterinary hospitals in the BU4 zoning district, by-right if the use meets certain limiting standards, such as that there be no overnight boarding not related to medical care. As per the committee's request at that meeting, the Planning Department noticed the public hearing as this use being allowed either by-right subject to certain standards, or by special permit. The discussion relating to overnight boarding made clear that veterinary hospitals are not kennels, and they don't typically have overnight boarding or extended stay unless necessary for a medical procedure.

The Proposed Zoning is an additional standard regardless of whether Council allows it by-right or by special permit. In the mixed use 4 district, the veterinary hospital is allowed by special permit, but they cannot have overnight boarding not related to medical care. After the public hearing the committee may decide whether to allow this use by-right or special permit.

Proposed Zoning

Amend standards in 6.4.36 to limit overnight boarding:

B. **Standards.** In the Mixed Use 4 district, a veterinary hospital is allowed by special permit, but may not have overnight boarding not related to medical care. **In the Business 4 district, a veterinary hospital may not have overnight boarding not related to medical care.**

Chair Crossley stated that the Committee could discuss if any other kind of restriction would be included if we were going to allow it by-right.

Chair Crossley opened the public hearing.

Public Comment:

"The Street Chestnut Hill" Development Manager Amanda Chisholm, stated that "The Street" would be affected by this zoning change. We want to express our support for the zoning change, we do think that a veterinary use would be a great use and a nice mix with the existing amenities and in other mixed use areas throughout Newton. Many of the properties that are within the BU4 district are also super dog friendly properties.

Councilor Albright made a motion to close the public hearing. Committee members agreed 8-0. Planning & Development Board member Mr. Steele made a motion to close the public hearing. Committee members agreed 5-0.

Committee members comments, questions and answers:

Comments:

I am in favor of having this type of facility in Newton. If a veterinarian would like to apply for a boarding facility, then a special permit may be necessary.

From experience, veterinarians keep their sites clean.

A Councilor stated that a member of the Chestnut Hill Association would prefer a special permit process.

It would be difficult to determine what criteria would inform the (Land Use) Committee to determine whether a special permit was appropriate or not.

If boarding is not allowed, we should approve this item by-right.

It is important for businesses to thrive. Approving this item by-right would allow veterinarians the opportunity to locate other facilities.

If there are a variety of businesses in a location it may be appropriate approving this item by special permit as not to affect another businesses.

Special permit criteria is clear that public convenience and welfare will be served.

There is a difference between relying on tenancy and relying on special permits. A special permit is enforceable by the City.

Questions and Answers:

Is the recommendation for a special permit or by-right? Mr. LeMel answered that the Committee would determine this.

Is it our decision to solve issues among business tenants?

Planning Board members questions and answers:

Questions and Answers:

Has everything been addressed including smell, noise or traffic or do we assume that zoning will address these concerns? Mr. Heath answered it would be a building permit code issue that ISD monitors closely. Matters of public health are overseen by the Health Department.

In closing, two Councilors expressed support to approve this item as a use allowed by special permit when residents and restaurants are nearby; other Councilors expressed support to approve this item by-right.

Without further discussion, Councilor Danberg made a motion to approve which carried 6-2, Councilors Wright and Baker opposed to allow veterinary uses without boarding, by-right, in a Business 4 zoning district. The Public Hearing was closed 12/16/21. The Planning & Development Board made a motion to approve the same language. Committee members agreed 4-0-1, Mr. Heath abstaining.

#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.

Zoning & Planning Held on 01/27/20, 02/10/20, 02/24/20, 03/09/20, 03/23/20, 04/13/20, 04/27/20, 05/19/20, 06/01/20, 06/15/20, 06/29/20, 07/09/20, 07/16/20, 08/13/20, 09/14/20, 10/01/20, 10/15/20, 11/05/20, 11/09/20, 12/14/20, 02/22/21, 03/08/21, 05/24/21, 07/08/21, 09/13/21, 10/25/21, 11/08/21, 11/18/21

Action: Zoning & Planning Held 8-0

Note:

Audio can be found here: <https://www.newtonma.gov/home/showpublisheddocument/78618> beginning at 49:03

New TV video can be found here: <https://vimeo.com/657628118> beginning at 58:34

This report will be available at a later date.

At approximately 9:50 p.m., the Committee adjourned.

Respectfully submitted,

Deborah J. Crossley, Chair