



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, December 12, 2022**

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

Also Present: Councilors Lipof, Bowman, Kalis, Oliver, Laredo, Downs, Kelley, Greenberg, Lucas, Humphrey, Malakie

Planning & Development Board: Kelley Brown (Chair), Kevin McCormick, and Peter Doeringer

City Staff: Barney Heath, Director of Planning; Jennifer Caira, Deputy Director of Planning; Jonathan Yeo, Chief Operating Officer; Ann Berwick, Co-Director of Sustainability; and Jaclyn Norton, Committee Clerk

For more information regarding this meeting, a video recording can be found at the following link: [Zoning & Planning Committee December 12, 2022 \(newtv.org\)](https://www.newtv.org)

**#489-22      Requesting amendments to zoning for animal service establishments**  
HER HONOR THE MAYOR requesting amendments to Chapter 30, Newton Zoning Ordinance, to amend the definition of “Animal Services” defined in Section 6.4.1.A, and to allow Animal Service uses in certain Business Use zones.  
**Action:**      **Zoning & Planning Approved 5-0 (Councilors Albright, Baker, and Danberg not voting)**

**Note:**      Jen Caira Deputy Director of Planning was introduced and explained that under the current ordinance “animal service” is a commercial use allowed in some, but omitted in other business districts. The zoning ordinance defines three similar uses: animal service, personal service, and service establishment. The latter two are allowed by-right in BU1-BU4 zones, but animal service is not, likely due to an error of omission when the 2015 recodification was approved.

To rectify this error, staff proposes including animal service as of right in BU1 and BU2. Thus, making the six animal grooming businesses existing within village centers, compliant with zoning. Second is clarifying the definition of animal services. Ms. Caira then showed the redline text for the amended definition (attached).

The public hearing was opened but there were no speakers. A motion to close the hearing by

Councilor Krintzman carried unanimously.

Citing no concerns, Councilors voted 5-0 (Councilors Albright, Baker, and Danberg not voting) on a motion approve from Councilor Ryan. Later in the meeting, the Planning and Development Board voted 4-0 on a motion to approve made by Peter Doeringer, 2<sup>nd</sup> by Kevin McCormick.

**Chair's note:** *For the following item Sustainability Director Ann Berwick will compare the new MA Energy codes as applicable to both residential and commercial projects. Adopting the "Specialized code" requires a simple majority vote of the City Council; we will discuss whether and when to hold a public hearing, as was done when Newton adopted the first Stretch Code.*

**#477-22 Request for discussion regarding new MA Building Energy Codes**  
COUNCILORS CROSSLEY, LEARY, ALBRIGHT, DANBERG, LIPOF, KELLEY, NORTON, LAREDO, BOWMAN, HUMPHREY, DOWNS, GREENBERG, WRIGHT, MALAKIE, MARKIEWICZ, AND GROSSMAN questing discussion with the Sustainability Team and Planning Department about the new MA Building Energy Codes (Base code, Stretch code and Specialized code) which become effective beginning January 2023, and in particular to understand the specifics of the MA "Specialized code" which is optional, what it regulates beyond the Stretch code, and to consider adopting the Specialized code for Newton.

**Action:** **Zoning & Planning Held 7-0 (Councilor Baker not voting)**

**Note:** Ann Berwick, Co-Director of Sustainability was introduced, and the Chair outlined that this meeting is to provide information on the key elements of the new MA Energy codes, to compare the updated Stretch code with the optional Specialized code, and to discuss a process for potential adoption of the Specialized Code. Newton is currently a Stretch Code community, having adopted the Stretch code in 2009. This means that the updated residential and commercial Stretch Codes will go into effect automatically in 2023.

Ms. Berwick presented the basic elements of the Stretch and Specialized codes (PowerPoint attached).

The Specialized Codes were developed to comply with recent State climate legislation and require a majority vote of the City Council for adoption. Ms. Berwick emphasized that these codes matter a great deal because in Massachusetts municipalities may not pass their own building codes. She noted that in Newton, buildings account for sixty-five percent (65%) of our greenhouse gas emissions.

Residential and Commercial Codes are separated. The Residential Code regulates detached one- and two-family dwellings and attached single-family dwellings, such as townhouses. The Commercial Code regulates all other buildings.

If communities elect to adopt the Specialized code, DOER recommends that it take effect on a January 1 or July 1<sup>st</sup> that is at least six (6) months after the Council vote on adoption. This is to be concurrent with how Mass Code amendments take effect, and to allow time for the industry to prepare to meet the requirements.

Ms. Berwick proceeded to summarize and compare the Stretch and Specialized codes for both residential and commercial applications, which are as well summarized in her memos (attached).

### **Discussion**

The Chair stated that the Stretch Code will become more stringent over time. Ms. Berwick agreed and noted that in 2024 the Stretch code will be as stringent as the Specialized Code, except for homes heated by fossil fuels. For these homes the Specialized Code will be stricter. Multiple Councilors raised questions on whether and how much the cost of construction may be increasing as a result of the more stringent codes. There are substantial State and Federal subsidies to encourage high efficiency electric equipment and Passive House construction that will need to be factored in to cost analyses. The Chair noted that Councilors would want to hear from a range of building professionals on the topic of increased cost, and that many local building professionals are ready to participate in a public hearing. Ms. Berwick agreed to check with a colleague at DOER for more information about EV requirements. The Chair noted that adopting the Specialized Code would help provide increased energy efficiency for by-right construction that is required routinely in Council Orders for special permit projects.

The Chair then noted that although a public hearing is not required to adopt this code, that that one was held when the Stretch code was first proposed and adopted in 2009, and asked the Committee whether a public hearing should be held regarding this item. Multiple Councilors agreed, and one noted that dispersing this information to the public before the public hearing would also be useful. The Committee then discussed whether to continue this discussion during a regularly scheduled meeting or in a Committee of the Whole. Councilors voted 7-0 (Councilor Baker not voting) on a motion to hold a public hearing continue this discussion in a Committee of the Whole from Councilor Danberg. The Chair will work with President Albright to schedule the meeting. Committee members then voted 7-0 (Councilor Baker not voting) on a motion to hold from Councilor Leary.

**Chair's Note:** *For the following item staff and Utile will lead a discussion focusing on evaluating the metrics for and proposed mapping of the VC1 district in response to various conditions across the city.*

**#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers**

ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

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

**Note:** The Chair noted the importance of VC1 as a transition zone, and the extensive feedback that has been received relating to the mapping and metrics of this zone. She noted that in the village center zoning sessions to date, there were many calls to extend this zone to provide opportunities for more multifamily housing close into T stops, as well as calls to remove commercial uses and concerns about the scale in certain locations.

Ms. Caira noted that tonight will be focused on some further analysis of VC1 including test fits, and outlining next steps. All graphics depicting this analysis are available in the attached presentation.

Ms. Caira began by reviewing the principal metrics the VC1 zone, reminding that at the previous meeting the committee considered eliminating commercial uses from VC1, and/or creating two VC1 districts, one of which might allow limited commercial uses by special permit only. She then showed examples of multi-family buildings that would comply with these dimensional controls. The Committee was then presented with drawings on actual sites to illustrate the minimum lot size needed for a four thousand (4,000) sf footprint, both when the lot abuts a residential district, and when abutting a non-residential district. The examples also depicted the lot size needed to accommodate underground vs surface parking. When asked, Ms. Caira noted that these graphics are done to scale with an assumed unit size of one thousand (1,000) sf. to determine the parking requirement, which is the unit size used in the MBTA Communities compliance model.

Test fits for lots over thirty thousand (30,000) sf were drawn using 714-724 Beacon St as the test site. Test fits for small lots were drawn using 1359-1365 Centre St. as the test site.

Ms. Caira noted that surface parking presents a significant limitation on building size and usable open space, that lots smaller than eight thousand (8,000) sf are not large enough to put parking underground, and the number of units that may be accommodated are reduced by the required surface parking.

Multiple Councilors posed questions related to the feasibility of underground parking. Ms. Caira noted that some developments have underground parking that goes beyond and between the buildings, and that the Planning Department is currently working with the Fire Department to figure out minimum stall and aisle dimensions. The Chair suggested getting opinions from developers on whether and how much, adding more units can help to cover the increased cost of underground parking.

A councilor asked whether a developer could change an address on a corner lot in order to get more advantageous setbacks, as can be done currently in residential districts. Ms. Caira noted that this is not possible given that the side and rear setbacks are the same in the draft zoning. A Councilor asked whether design guidelines (which are not mandatory, but used to evaluate design appropriateness before the Urban Design Commission, for example), have been successful in other communities. This question was laid on the table to afford staff time to

discover results. Committee members noted the many design requirements within the text and the Chair asked if these could be provided in a list to help people understand the level of control they provide. In response to concerns about having any historic properties or districts within a proposed zone, Ms. Caira also noted that any lot in the overlay district that is also within a historic district would have to comply with the guidelines of the historic district commission. In addition, it was noted that providing opportunities for reuse, but under the design review authority of an Historic Commission, may offer further protection for an historic building.

Ms. Caira outlined additional analyses that staff intend to undertake and share with the committee:

- Synthesize feedback from initial draft ordinance and maps
- Comparisons of VC1 to existing zoning
- Consider whether VC1 should be split into two districts
- Additional analysis of setbacks
- Consider a tiered approach to Special Permit threshold, open space, and façade length to better reflect residential nature of VC1
- Consider limiting half story to pitched roof in VC1
- Further analysis of ways to incentivize preservation of existing buildings
- Analysis of progress towards compliance with MBTA Communities

The Chair described that she and staff will be considering a more detailed calendar that will consider how to deliberate on the various elements of the draft over the first several months of the new year, which she will share with the committee as soon as possible.

The Committee voted 8-0 on a motion to hold from Councilor Danberg.

**#544-22      Reappointment of Dan Brody to the Community Preservation Committee**  
HER HONOR THE MAYOR reappointing Dan Brody, 15 Brewster Road, Newton Highlands as a member of the Community Preservation Committee for a term of office to expire on February 1, 2026. (60 Days: 02/03/2023)

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

**Note:**      The Chair read the item into the record. Committee members expressed no concerns relative to the reappointments and voted 8-0 on a motion to approve from Councilor Krintzman.

The meeting adjourned at 9:28pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**