

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

TUESDAY, JUNE 16, 2015

Present: Ald. Johnson (Chairman), Danberg, Baker, Hess-Mahan, Yates, Kalis, Sangiolo and Leary

City Staff Present: James Freas (Acting Director, Planning Dept.), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), John Lojek (Commissioner, Inspectional Services), Karyn Dean (Committee Clerk)

#6-15 ALD. BAKER, HESS-MAHAN, ALBRIGHT requesting a discussion by the Zoning and Planning Committee with the Acting Director of Planning and Development of how Phase 2 of Zoning Reform might be undertaken, including the contents of the proposed Village and Master Planning and Zoning Reform Request for Proposals, including the planning process and ordinance revision process the RFP anticipates, as well as the staffing and funding needed to enable both in-house and contracted work under the RFP to be both well done and appropriately supervised. [12/29/14@4:00 PM]

ACTION: **HELD 8-0**

NOTE: James Freas, Acting Director, Planning Department addressed the Committee. He provided a PowerPoint presentation which is attached to this report. Steve Jobs once said “It takes a lot of hard work to make something simple, to truly understand the underlying challenges and come up with elegant solutions.” George Proakis, Director of Planning from the City of Somerville gave a presentation to the Committee last week, which also embodied this theme. The basic notion for Phase 2 is to develop a clear understanding of the existing City and to understand the challenges that presents, and come up with the tools necessary to regulate it to get the desired result in the future.

Mr. Freas said he felt it would be useful to start with a Pattern Book. Measuring the City to find out what currently makes up the City of Newton would be a first step in the process, as it was in Somerville. This would determine the lot sizes and building sizes in each of the neighborhoods, showing in fine detail exactly what the built environment is. Then elegant solutions need to be found to retain what we have in the City as well as how to build what we would like to have. Dimensional controls, use controls, development standards and special permits are all within the existing zoning toolbox.

Additional tools could be added that are not currently being utilized such as building types, build-to lines and separating the “box” from the “attachments.”

Building Types

Building types as a regulatory tool is something that could be utilized. The zoning ordinance would identify a set of building types. For each district, the ordinance would then identify the building types and land uses allowed. Further restrictions might prohibit some building types from certain land uses. Building types is a tool that gives the City finer grained control over how development or re-development happens. This helps speak directly to how the City is designed and how people experience the City through the types of buildings that actually exist.

Mr. Freas used the example of a “paired house” building type (which is actually not something that exists in Newton.) The building type would have a description: A paired-house is “A moderate floor plate, semi-detached, residential building type with up to two vertically stacked dwelling units. A paired house is attached on one side to another paired house.” There would be an illustration as well. A property owner would determine their district, then would see which building types are allowed in that district. There would be a two-page spread that describes the range of size of lots; then there would be a maximum and minimum building size range that would be allowed. That would be determined through FAR, as Newton currently measures, or perhaps a different method as is done in Somerville in which they use minimum and maximum depths, widths, and heights. A “cottage” building type for example, would have a different set of dimensional controls on the lot and the building but may be allowed in the same district. Newton would have to determine its own building types.

Zoning Lot

The lots could also be regulated as well by overlaying a “zoning lot” over the physical lot. Denver uses this concept of “zoning lot” as distinct and separate from the physical lot. This would keep the mass and size of houses down because one could only build within that envelope and not the overall lot. So a larger lot would not necessarily allow for a larger building than a smaller lot would, depending on the district. A Committee member pointed that that narrow long lots can be challenging to deal with. Mr. Freas said Somerville, for example, imposes maximum depths on the building itself, so it wouldn’t matter how long the lot might be.

Box and Attachments

Mr. Freas explained that there would be a by-right “box” that one could build and there would be “attachments” to it that would also be by-right within certain regulations. Somerville has created a standard set of regulations that apply to each of their by-right “additions”. This is a tool they have identified that has been useful. It was mentioned by a Committee member that it would be advisable to use language that would allow for innovations in building design.

It was asked what the response would be to those who feel their freedom as property owners to design their own home would be limited. Mr. Freas said the building types are meant to get you to the “box” and outside of that that are many “attachments” either by-right, or by special permit that can be allowed and configured. This is not meant to get any more detailed than that.

Build-to Lines

Build-to lines would define minimum and maximum setbacks. It helps to define the public/private realms. The street is the public realm; the front yard is the semi-public realm (it is available for the public to see, but not access); and the private realm and back yard are the private realm. Rear lot subdivisions are problematic because a home in the back lot invades the private realm of the house in the front lot. Other things can be regulated through these setbacks as well such as the snout house problem because a minimum setback for a garage and parking space could be farther back than the front of the house.

Interim Measures

There was concern that construction, development and demolition is happening in the City and by the time the inventory is done, neighborhoods will have already changed significantly, particularly in places like Oak Hill Park. Adopt measures to deal with snout houses, impose zoning lots on long, narrow lots, and find other methods that can solve the problems that are currently on the Zoning & Planning agenda in the short-term. These could be adopted now while the rest of the process is ongoing.

Commissioner Lojek was concerned with making changes here and there as has been done in the past. This has led to difficulties, for example, average setbacks are challenging to calculate; with buildings built prior to 1922, an accessory building may be built that is exempt from lot coverage restrictions but does not specify if that applies to detached or attached structures and if living space could be added above it. Furthermore, why should old buildings have these provisions at all. Changes would impact several sections of the ordinance so that need to be done in a coordinated way. The private sector has people working 24/7 looking for oddities in the zoning ordinance to get around them to their advantage. He does not want to see more knee-jerk reactions that could create more work and more confusion. While writing something new that is supposed to be comprehensive, he would rather not see these piecemeal changes. Committee members agreed that while phase 2 should be comprehensive and fix the oddities, there could be reasonable interim changes in the meantime, and the Planning Staff had recommended a dual process as well. The demolition moratorium was voted down with the idea that some action would be taken in order to address the problems voiced by constituents.

Ald. Sangiolo would like to see an ordinance that doesn't allow more than perhaps a 25% increase to the size of a new structure over a demolished structure, as an interim measure. She will talk to Mr. Freas about docketing a broad item on this issue.

Next Steps

- Mr. Freas said he would like to build a process that gets the staff out talking to people and taking the inventory action in order to define the communities.
- A copy of the RFP will be provided to the Committee to review for the next meeting in order to provide feedback.
- Ald. Johnson would like to Committee to prioritize the issues that could be dealt with in the interim. It is important to move forward with Phase 2 in a comprehensive way and

time should be spent wisely on short-term fixes so as not to detract too much from the overall goal.

The Committee voted to hold this item and will take it up again at the June 22nd meeting.

#278-14 ALD. YATES proposing to amend Chapter 30 of the City of Newton Ordinances to restrict the two-unit structures allowed by-right in the multi-residence districts to structures with the two units side-by-side in a single structure, or one above the other as in double-deckers. [07/31/14 @ 12:03PM]

ACTION: **HELD 7-0 (Ald. Hess-Mahan not voting)**

NOTE: Both #278-14 and #222-13 will be discussed together. Ald. Hess-Mahan explained that, for him, these docket items arose from a house that was built on Watertown Street. The house was unlike anything else in the neighborhood. It is in a MR zone so a two-family could be built by-right. The original design presented to the City was two houses with garages in the middle connecting them. Dave Norton in Inspectional Services said this was not a two-family design as there was no common wall connector or roof connector that enclosed living space. The next design then included 6 feet by 12 feet of habitable space behind the garage and it satisfied the ordinance. While it didn't look very good, it did in fact satisfy the letter of the ordinance so was approved. It was on a long thin lot, so they turned the structure sideways which did not provide pleasant views for the neighbors on either side. Ald. Hess-Mahan felt it was very likely that after the owners received the certificate of occupancy, that "living space" behind the garage was eliminated, making for a deeper garage.

He felt that a building design or designs should be offered which show exactly what a two-family should look like and any other design would not qualify. Currently, the ordinance describes a two-family, detached as a building that contains two dwelling units and is either divided vertically so that units are side-by-side or separated by a shared wall, or that are divided horizontally so that one unit is above another. This did not prevent the previously described home from being built.

Ald. Hess-Mahan feels that a two-family is a typical double-decker or a typical side-by-side that has the same ridge line along the top of the house. There are a couple of exceptions, like the Philadelphia style house which has 3 floors; the first floor unit has one floor, and the second and a smaller third floor make up the second unit. An attached dwelling which has a side-by-side configuration with two gables facing the front, without a common ridge line, looks like two townhouses attached to each other and not a typical two-family. This is not a two-family, in his opinion. The definition of two-family needs to change and be as simple and clear as possible. It should be specified that if the units are divided vertically, they have to be divided so that both buildings have a common ridge line, or could also be a one-story attached to a two-story. He has seen a number of those in his neighborhood. The language needs to be worked on and illustrations included for clarity. It was suggested that an intent statement be made as well in the ordinance.

Mr. Freas said on larger lots, there is room to build two structures and connecting them with the garage made the structure by-right in that circumstance. By closing down on the dimensional controls there would be no space for two single-family houses, but just space for one building which will bring things back to more traditional styles.

Next Steps

Ald. Hess-Mahan will work with Mr. Freas on some illustrations and some language for the definition of two-family. This will be looked at in conjunction with the interim measures as was discussed in the previous item.

The Committee voted to hold this item.

#222-13 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30, Section 30-1** of the City of Newton Zoning Ordinances.
[06/07/13 @ 1:31 PM]

ACTION: **HELD 7-0 (Ald. Hess-Mahan not voting)**

NOTE: See note above. The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

Marcia T. Johnson, Chairman