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Newton City Clerk

Summary to ZAP re: Historic Landmarking and Demo Delay
2020 JAN 27 AM 10: 23

Dear Chair Crossley and members of ZAP,
David A. Olson, CMC

Newton, MA 02459
Historic landmarking is the highest bar of historic preservation, so it is timely and important that the review and update to Newton's city ordinance Chapter 22 has begun. A working group has started this process but progress has been slow. I submit this summary of progress to date and outstanding issues to you.

As you know, it is difficult to craft ordinance language with a large group of individuals. Several members, including city staff, have commented on the lack of efficiency since our first meeting, which was only able to cover a few sections.

It is generally agreed that clarity, consistency, consideration of all sides, public good, fair process, and owner notification are crucial. In brief, unresolved issues center around the **nomination process, owners' rights, the appeals** processes, and **definitions** of eligibility.

Specific aspects of the current ordinance that have not resolved in agreement nor even begun a discussion of include:

- **Nominating:** which individuals may nominate a property for landmark consideration?
- **Owners' rights:** should, and if so when, may property owners' be notified that their property may be nominated, do they play a role or have a voice? Many landmarking decisions have been against the owners' will.
- The **appeals processes** (Administrative Review Sec. 22-69) is currently not functional as the MAPC is not fulfilling this role as laid out in the ordinance. What other body or process would best serve this key aspect?
- **Definitions:** differences between "preferably preserved" and "historically significant" are not defined.
- Definitions such as "structure", "important" architect, builder or "historic person"(Sec. 22-50 Historically significant building or structure) are vague and subjective.

Other:

- Overall **intention** of the ordinance is not laid out
- is **50 years** still the appropriate age to initiate a review, given that close to 90% of Newton properties are this old?
- If not already on the **National Register of Historic Places**, which is needed to consider landmarking a property, what body is best suited to weighing in on the eligibility for that status, as the Mass. Historical Commission is no longer providing this required input?
- should the **roles of the "planning board" and City Council be reconsidered? Sec. 22-63(d)**

- How does the “purpose of **preventing developments** incongruous to the historical or architectural characteristics ” (Sec. 22-66(c)) get weighed with respect to the goal of historic preservation?
- **Landmark designations are irreversible**; if information later available indicates that a decision should be rescinded, is not possible to remove the landmarked status

Consideration of other key factors in Newton’s goals such as economic development, housing production, environmental sustainability, balancing historic preservation with property owners’ rights, have not played a connected or significant role in this review process to date. There is legal language that needs to be reviewed and edited for overall redundancy, intention and clarity.

Andrea Kelley, Councilor at-Large, Ward 3
January 26, 2020

#37-20

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Newton City Clerk

2020 JAN 27 PM 2: 22

David A. Olson, CMC
Newton, MA 02459



Chair Deborah Crossley
Land Use Committee Newton City Council
1000 Commonwealth Avenue
Newton, MA 02459

Jan. 27, 2020

Re: #37-20, Temporary suspension on landmark designation

Dear Chair Crossley:

The chamber is frequently asked how the council can support our small, independent business owners.

One important way that council could do this is to reevaluate our landmarking process.

As seen by the recent proposal by one of your colleagues to landmark seven buildings in West Newton, this process is deeply flawed and subject to abuse. In this example, one councilor's ability to exercise her authority to seek "urgent" landmarking, sent these private, law-abiding, property owners into an entirely unnecessary frenzy; regardless of the historical quality of their buildings or whether or not they were even contemplating changes.

None of these owners were provided the courtesy of a conversation in advance from your colleague. Then with two weeks' notice, they were forced to quickly bone up on a confusing process and decide whether or not to incur the expense of legal counsel.

Of course, we all know that the intentions behind this "urgent" request had nothing to do with preserving the historic qualities of these specific properties and everything to do with an alternative agenda. This cynical use of the "urgent" landmarking authority is disrespectful to Newton's property owners, who are guilty only of paying taxes and playing a critical role in our village life. Our small commercial building owners depend on these properties for their livelihood, to send their children or grandchildren to college, or their retirement. They deserve a fairer, more respectful, process.

Preserving the historic properties that respects Newton's rich history is a goal we can all embrace. But this process is not respectful. The chamber urges the council to quickly adopt #37-20, which would create a temporary suspension on landmark designations.

A temporary suspension of the current rules will allow the council, the city and our property owners to engage in a thoughtful review of this process and prevent the misguided abuse of landmarking that we've just witnessed.

Sincerely

A handwritten signature in black ink, appearing to read 'Greg Reibman', with a long, sweeping horizontal line extending to the right.

Greg Reibman
President
Newton-Needham Regional Chamber

CC: President Albright, Mayor Fuller, Zoning & Planning Committee

From: [David A. Olson](#)
To: [City Council](#)
Cc: [Nathan Giacalone](#); [Barney Heath](#)
Subject: FW: #37-20 Temporary Suspension of Landmark - Submitted by Councilor Markiewicz
Date: Monday, January 27, 2020 3:32:31 PM

From: Christopher J. Markiewicz <cmarkiewicz@newtonma.gov>
Sent: Monday, January 27, 2020 3:24 PM
To: David A. Olson <dolson@newtonma.gov>
Subject: #37-20 Temporary Suspension of Landmark - Submitted by Councilor Markiewicz

Mr. Olson, would you please distribute to the Council and other concerned parties, Thank you.

Colleagues,

I am unable to attend this evening's ZAP meeting where #37-20 will be taken up in committee.

My understanding of the genesis of the subject item was that it was in response, at least substantially, to a concern that the Historic Commission could both nominate and approve a property for landmarking. As such it allows the initiator to approve its own request. This is a legitimate concern along the lines of maintaining a proper segregation of duties and responsibility.

Nonetheless, I think there is a more simple approach than a suspension (which might be called a moratorium, and recall the Council majority opining last year their disapproval of moratoria in general). In cases where the Historic Commission initiates a request, specify that some other qualified party be the determinant (or as Mr. Bush #43 like to say - " the decider"). This would eliminate the need to suspend the current privileges. I also think that eliminating Councilors as potential proposers, but leaving the Executive Branch unencumbered with such limitation upsets the balance of power and is a slippery slope with respect to governance in general.

I respectfully ask you to consider modifying this item in the manner which I suggest above.
Thank you for your attention.

Regards,

Chris

From: [David A. Olson](#)
To: [Nathan Giacalone](#)
Subject: FW: Support for Docket #37-20
Date: Monday, January 27, 2020 3:56:48 PM

From: Hodge, Malcolm [REDACTED]
Sent: Monday, January 27, 2020 3:50 PM
To: City Council <citycouncil@newtonma.gov>
Cc: Andrea W. Kelley <akelley@newtonma.gov>
Subject: Support for Docket #37-20

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Council,

Thank you for considering input from Mimi and I.

The Historic Commission does great work in many areas to preserve our neighborhoods which I know must take many unpaid hours on their part.

We support docket #37-20 as it will allow a thorough review of the land-marking process which has not been reviewed in almost 30 years. We believe that it is a fair and prudent course of action to impose a temporary halt to land-marking decisions for a period of time to allow the ordinance to be reviewed. Having the review, whatever the outcome, will further strengthen the work of the Committee and the support that they will have from the community which they serve.

Regards Malcolm and Mimi Hodge

Malcolm C. Hodge, FFA, CFA, FSA, Senior Partner

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#37-20

expressed in this message is being delivered to you solely for your use in connection with the matters addressed herein and may not be used for any other purpose without our prior written consent.

January 27, 2020

I am not able to attend today's meeting, however, I would like to provide the following statement related to docket item #37-20.

I am a resident of Newton and have recently become aware of the initiatives of the Newton Historical Commission (NHC) to landmark properties. My understanding is that there is ambiguity and subjectivity involved in this process. In light of this, I support the suspension of landmarking until the ordinances can be rewritten and the process have more transparency.

Many aspects of this practice trouble me, including my understanding that any person can begin the process to landmark a home without the consent of the homeowner.

In my judgment this is not fair or reasonable. I have become aware of how owning an older home may cause the homeowner real trouble including reducing the value of the property. The threat of landmarking creates a landmarking "cloud". This "cloud" may make it very difficult, maybe impossible, to sell the property at any value. How is this fair or reasonable?

Does the NHC understand the impact of its actions on the homeowners? On potential buyers?

As a homeowner no one is asking me or my neighbors about our views on the future of our city as it relates to landmarking. In conjunction with speaking out in this way the residents should be able to rely on its representatives to shape the city's development and future. Like some of our neighboring communities the City Councilors should be the ones voting on the landmarking of a property. It is not clear to me who the NHC is representing. It does not appear to be representing the homeowner. Certainly not me.

I would encourage the elected officials in Newton, vs. the appointed NHC members, to take a more active role in the current practices, immediately modify or suspend as needed, toward being more understanding and supportive of the homeowners and tax payers in the City.

Aron Ain

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Newton City Clerk
2020 JAN 27 PM 5:11
David A. Olson, CMC
Newton, MA 02459

#37-20

Good evening. My name is John Von Bargen and I'm here as someone that offers a unique perspective on landmarking having spent a great deal of time and money last year trying to buy 279 Fuller St., a residential house in West Newton that has proven to be unsalable given NHC's sole view it should be landmarked. I'm a prospective resident of Newton and wanted City Counselors tonight to hear a letter I wrote Mayor Fuller last fall.

Ruthanne,

My wife and I are long time Bostonian's having spent over 20 years in the city. We call Cambridge home for our three young boys and have been searching to move to a home for over a year in West Newton. My wife and I spent the summer and fall getting to know the Galligan family, which consists of three siblings that grew up in Newton and are trying to find a family to buy their family's home after their mother's passing. As of a few weeks ago, we were days away from transacting with the Galligans until a paper trail surfaced that was drafted and sent by NHC to Massachusetts Historic Commission establishing the grounds for what could become a National Historic Registered home and a home deemed a "landmark" in the town of Newton.

I'd welcome the opportunity to meet with you to seek guidance for my family. To be candid, my sense is the challenges the Galligan's face selling their home and the risk that exists for me as a buyer are not conducive to the long-term growth of a town like Newton. I've spent an exorbitant amount of time online, time and money with attorneys, builders and architects, and despite NHC's proposal, I have collectively drawn the following conclusions about 279 Fuller...

- 1) While an older home, it's not historic in that prior residents would be unknown by citizens of Newton as historically significant people (i.e., the Obamas didn't live at 279),
- 2) the architecture is not unique or representative of a specific style but rather an odd blend of architectures that architects have told me is "architecturally insignificant",
- 3) the Galligan's have been paying taxes on an assessed value that is far greater than if the home was landmarked,
- 4) the house is out of code, has very low ceilings, and is non economical to preserve given the work involved, and
- 5) my hunch from numerous conversations, the neighbors around 279 would vote in favor of a fresh new and modest home to complement the scenic drive of Fuller Street.

Ultimately, we are a family looking to become long term residents of Newton and raise our boys in the community and neighborhood schools. 279 Fuller is the place we would like to call home for the next 40 years but unfortunately the risks in the ordinances and what appears to be the opinion of NHC to landmark 279, has left the Galligans and my family, as prospective buyers, little visibility into what NHC will determine feasible. Further, and in complete transparency, I met with NHC in person a few weeks ago and effectively heard "anything can be renovated and we should really consider collaborating with NHC" on 279 Fuller, which given my extensive and third party diligence and facts above, feels like NHC is bordering on eminent domain.

I'm proud of my family and what they can bring to a town like Newton and I thought you would be interested in the history and facts about 279 Fuller, which may present similar obstacles for other prospective residents of Newton.

Regards, John Von Bargen

Also worth noting and outside of the letter, unfortunately, even with this proposed ban on landmarking, my family still can not consider buying 279 Fuller because of the 12 month demolition delay which would lapse this ban and pose the same uncertainty regarding landmarking. So, I'm here purely to help the town recognize the implications of the landmarking ordinances and to help the lovely Gallighan family hopefully find a salable path for their home.

2020 JAN 27 PM 5: 25

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Newton City Clerk**279 Fuller St. - Aron Ain's neighboring property**

John Von Bargen <johnericvonbargen@hotmail.com>

Tue 10/29/2019 11:59 AM

To: rfuller@newtonma.gov <rfuller@newtonma.gov>

2020 JAN 27 PM 5: 25

David A. Olson, CMC
Newton, MA 02459 1 attachments (3 MB)

nwt_3945 (2).pdf;

Ruthanne,

I hope this finds you well. I believe Aron Ain may have emailed you or spoken with you about my family and our quest to own the property next to his home on Fuller St. As background, my wife and I are long time Bostonian's now having spent over 20 years in the city. We currently call Cambridge home for our three young boys and have been looking for a home for well over a year around Brae Burn or north into the West Newton Hill area. As it relates to this email and 279 Fuller St., my wife, Emily and I spent the majority of the summer getting to know the Galligan family, which consists of three siblings that grew up in Newton and are now trying to find a young family to buy their home at 279 Fuller St. The Galligan's mother passed in early 2019 and they have been interviewing families and trying to conduct a private and more personal real estate transaction. As of a few weeks ago, we were days away from transacting with the Galligans until a paper trail surfaced that was drafted and sent by Newton Historic Commission to Massachusetts Historic Commission establishing the grounds for what could become a National Historic Registered home and a home deemed a "landmark" in the town of Newton. Katy Holmes is the signatory on these documents, which I attached hereto to the extent helpful for you or your Chief of Planning.

I'd welcome the opportunity to meet with you and or whomever else you feel would be helpful to provide guidance for my family. To be candid, my sense is the challenges the Galligan's face selling their home and the ambiguity that exists for me as a buyer are not conducive to the long term growth of a town like Newton. I've spent an exorbitant amount of time online, time with attorneys, builders and architects and collectively have drawn the following conclusions ...

- 1) 279, while an older home, is not historic in that the prior residents would not be known nor appreciated by the citizens of Newton, Mass or America as historically significant people (i.e., the Obamas didn't live at 279, or a former mayor of Newton, etc),
- 2) the architecture is not unique or representative of a specific style but rather an odd blend of architectures and what professional architects I have spoken with have said is "architecturally insignificant",
- 3) the Galligan family has been paying taxes on assessed values for decades that are not indicative of a home reassessed as a landmark property,
- 4) the house is out of code, has very low ceilings, and is non economical to preserve given the work involved, and
- 5) my hunch from numerous conversations, the residents of the neighborhood would welcome a fresh new and modest home to complement the scenic drive of Fuller and newer architectures on the street.

Ultimately, we are a family looking to become long term residents of Newton and raise our three boys in the community and neighborhood schools. 279 Fuller is the place we would like to call home for the next 30-40 years but unfortunately the ambiguity in the legislation and what appears to be the opinion of Katy Holmes to build a file deeming this house historic, has left the Galligans and my family, as prospective buyers, little visibility into what NHC will determine feasible. Further, and in complete

1/27/2020

Mail - John Von Bargaen - Outlook

#37-20

transparency, I met with Katy Holmes in person a few weeks ago and effectively she said "anything can be renovated and we should really consider collaborating with NHC" on 279 Fuller, which given the diligence and facts above, feels like NHC is bordering on eminent domain.

Thanks for your time here. I totally understand if you deem this something for someone else's desk. I'm particularly proud of my family and what they can bring to a town like Newton and I thought you would be interested in the history and facts above, which may present similar obstacles for other prospective residents of Newton.

Best regards,
John Von Bargaen
cell 617-817-2071

From: [Andrea W. Kelley](#)
To: [Nathan Giacalone](#); [Deborah J. Crossley](#)
Subject: Fw: docket item #37-20 temporary suspension of landmark designations public hearing
Date: Monday, January 27, 2020 6:13:09 PM

Dear Chair Crossley and Nathan, not sure if the CC received this letter directly from Stefano Efstratoudakis, to enter into the record and share with ZAP committee members.

From: Stefano Efstratoudakis [REDACTED]
Sent: Monday, January 27, 2020 5:40 PM
To: Andrea W. Kelley <akelley@newtonma.gov>
Cc: Peter Sachs [REDACTED]; Alan J Mayer [REDACTED]; Alan Schlesinger [REDACTED]; maryfrances [REDACTED]; Robert Fox [REDACTED]; Malcom Hodge [REDACTED]; Vir Bhansali [REDACTED]; Laurence Lee [REDACTED]; [REDACTED]
Subject: docket item #37-20 temporary suspension of landmark designations public hearing

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Hello Andrea,

I also like to ask to respectfully submit the following for the record:

Dear councils,

This is a great opportunity, and the only one in the last thirty years to temporarily put on hold a very unjust and extremely one sided by-law.

Linda and I are in strong support of docket item #37-20.

The least a government body can do is put on hold a process that is one sided.

The existing bylaw has very vague and broad criteria that gives the Historic Commission the right to landmark a property.

There are no specific guidelines or rules to follow for why a property should be Landmarked. i.e. A house owned by a successful businessman is not a good enough reason for it to be landmarked.

Neither is the fact that a house is old. If that is a reason then most houses in Newton should be Landmarked.

The process itself is very specific and one sided.

First, the homeowner has no say on the matter whatsoever. This fact alone is unjust and unfair.

Second, the vague criteria is presented to the Historic Commission and the Commission always votes for Landmarking.

Third, after that vote, the homeowner has no other due process to

appeal this decision. One has to look to the courts.
Fourth, the City relies on the Historic Commission alone for such decision. There are no checks and balances in this process.

So, we take a vague and broad definition, that is designed to include almost all old houses, and a very specific one sided process and the Landmarking is a done deal.

Unfair, and Unjust.

Landmarking is a very serious thing. It is there forever. It affects every single decision one has to make on a property, not just the house.

Landmarking should be accompanied with pride and absolute justification.

It should not be a tool to stop development - as it has become - and docket #37-20 is an opportunity for the city to put the current process on hold and make it more balanced and fair for all.

Respectfully

—

Stefanos & Linda Efstratoudakis
128 Highland Street, Newton, Ma 02465

From: [Andrea W. Kelley](#)
To: [Nathan Giacalone](#)
Cc: [Deborah J. Crossley](#)
Subject: Fw: docket item #37-20 temporary suspension of landmark designations public hearing
Date: Thursday, January 30, 2020 1:01:45 PM

Nathan, I didn't realize that Treff's letter was not copied to the CC in full, or you. Here it is.

From: Treff LaFleche [REDACTED]
Sent: Monday, January 27, 2020 9:53 AM
Cc: Treff LaFleche [REDACTED]
Subject: RE: docket item #37-20 temporary suspension of landmark designations public hearing

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Hi Andrea,

I'm so sorry that I can't be at the ZAP meeting tonight, but would like to submit the following comment. If you could read this into the record, that would be much appreciated:

I strongly support docket item #37-20 to temporarily suspend the current landmarking process while Chapter 22 of the City Ordinances is being reviewed. The current unilateral capability of the Newton Historic Commission to landmark a structure without a property owner's right to early notification, full participation in the process and/or the right for appeal is a clear challenge to democratic fairness and due process. The goals, criteria and process for Landmarking are in desperate need of review and re-evaluation given the changes we are ALL experiencing in our city: significant growth in land values, the importance of the sustainability of our built environment and the need to provide diverse and affordable housing. I support stepping back for a time and looking at all of these issues holistically in order to achieve a balanced, integrated and forward-looking solution.

Thanks and good luck with the hearing.
Treff

Treff LaFleche, AIA, LEED AP
Principal
617 500-1608

LDa Architecture & Interiors, LLP

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Andrea W. Kelley

**Councilor At-Large, Ward 3
Newton City Council
1000 Commonwealth Ave.
Newton, MA 02459**

857-297-2177

akelley@newtonma.gov

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Newton City Clerk

Thank you City Councilors for taking up the matter of Landmarking. I am here in support of the suspension of land marking until the ordinances have been rewritten and the clear goals of the City of Newton in regard to development and preservation have been established.

2019 JAN 31 AM 11:59
David A. Olson, CMC
Newton, MA 02459
In April, I became a fourth generation Newton homeowner. Several branches of my family have lived in Newton for over a hundred years. One set of great grandparents settled here in the mid-1800s. Another branch in the early 1900s. So my family has invested in and enjoyed all that Newton has to offer. My parents owned 3 homes in Newton in the span of 70 years. First they bought a starter home in Newton Highlands, then moved to Waban and finally for the last 46 in West Newton. My parents bought the house in West Newton before the establishment of the Historical Commission. I am not so sure they would have made that same decision again seeing the burden their choice has placed on me and my siblings in the current state of affairs. My mother who was born here at Newton Wellesley hospital died last April and my sister, brother, and I inherited this house.

Our first knowledge of landmarking came when my siblings and I went to sell the house. We received an offer and were very excited that a young family would move into and enjoy living in Newton as we did.

It was then we were asked if the house was landmarked or could be landmarked. We replied, "We never heard of landmarking and No we didn't think so". No one had ever mentioned it to my mother in all the 46 years she owned the house. Still, the idea that the house could get landmarked scared the prospective buyers away and they rescinded their offer. I am not sure if it is a coincidence or not but the prospective buyer had visited City Hall to gather information on the house and next thing: on the day of the signing of the P&S he backed out. This was incredibly disappointing and prompted us to look into landmarking.

Now we were thrust into the mysterious world of landmarking. How does Landmarking happen? What's the procedure? Who decides? Is it something we had to worry about? We read up on various landmark cases in the past few year. Wow. They are all different. Nothing seems to be clear-cut. Is there a set criteria for landmarking? Oh my Gosh are we are going to have to hire a lawyer? All we want to do is sell our house to a nice family. Just like we were sold the house 46 years earlier.

We looked at the criteria posted on the Newton website and asked ourselves the questions: Is the house on the National Registry? No. Did someone famous live in the house? No. Was it designed by a famous architect? No. So why are people worried? It's just an old house.

Subsequently we received another offer - a full-price offer. We accepted it as we had the previous offer. These prospective buyers also did their due diligence and went to City Hall to ask questions and promptly rescinded their offer. Through our brokers we received a note stating they remain very interested in the house but need written assurance from City Hall/NHC stating that the property will not be landmarked. Oh no not again.

As you can see we have had very interested buyers scared away by the threat of landmarking. Many more people have shown interest as well but are too fearful about the possibility of landmarking. The important word is the idea or possibility of landmarking! My siblings and I look at each other in disbelief. I am going to assume the best in that the well-intentioned people of the community did not think of these consequences and the harm being done to the homeowners of Newton by Landmarking or the possibility of landmarking. No one would want a family to go through this experience.

So here we are 10 months after the death of my mom. Facing another tax bill on Friday and unable to sell our house. 10 months of sleepless nights, researching, meeting with lawyers. Treading water. All we want to do is sell our house. We don't have the resources or the plan to renovate. That's up to the new owners. We are waiting, handcuffed to the house with no light at the end of the tunnel.

The events of the last few years and the overwhelming number and type of houses and commercial properties put up for landmarking in the City of Newton has created fear among home buyers which results in homeowners' inability to sell our houses. This can't be right!

The citizens and homeowners of Newton need to know about this and you, the representatives of these people, need to do what is fair to all. This is a country which celebrates freedom and me and my siblings' freedom to sell our house is being taken away. The 88% percent of people in this city that have a home older than 50 years should be alarmed. This story could be theirs. This story could be yours! You 88% could find yourself in a similar predicament.

You, as representatives, should suspend the landmarking process until a well-developed vision for the development and preservation of the properties in Newton is clear and transparent to the community. We need to clarify that OLD does not mean HISTORIC! That Landmarking is NOT to be used by a select few people as a way to stop change. These select few people should not have the ability to interfere with a person's right to sell his or her home.

It is important when thinking about this issue that 82% of the city's budget is property taxes and it is paramount that we all realize that decisions made in the area of landmarking affect all our property values and reaches into every part of the community.

I ask you to discuss that, because this is such a significant issue connected to the future of Newton, the Landmarking of a home, commercial or city building should be voted on by the Councilors. In the meantime please suspend the landmarking process until we can get it right!

Thank you for listening.