



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, February 24, 2020**

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

**Also Present:** Councilors Laredo, Downs, Malakie, and Kelley

**Planning and Development Board:** Peter Doeringer (Chair), Sonia Parisca, Sudha Maheshwari, Kevin McCormick, Jennifer Molinsky, Chris Steele

**City Staff:** Jennifer Caira, Deputy Director of Planning; Zachary LeMel, Chief of Long-Range Planning; Gabriel Holbrow, Community Engagement Specialist; Ann Berwick, Co-Director of Sustainability; Andrew Lee, Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; Nathan Giacalone, Committee Clerk

**#31-20**      **Amend zoning ordinance special permit criteria related to energy conservation**  
COUNCILORS CROSSLEY AND ALBRIGHT seeking a review and possible amendments to Section 7.3.3.C.5 of Chapter 30, Newton Zoning Ordinance, to: a) further inform the objectives of reducing energy consumption and limiting use of natural resources, and b) consider reducing the threshold for compliance to apply the requirement to buildings 10,000 sq. ft. and larger.

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

**Notes:**      The Chair explained that the item before the Committee is Part A only. This item was docketed to bring clarity to the fifth special permit criterion for the user and Council. This resulted in the addition of Section 5.12 Sustainable Development Design to the ordinances (attached), which specifies building energy rating systems and certain other requirements that must be met in order to satisfy special permit criterion 5, but which has several placeholders not yet drafted. Therefore, the item was re-docketed to provide additional clarity regarding the issues Criterion 5 is intended to address, within the criterion.

Jennifer Caira, Deputy Director of Planning, presented both the language the Committee agreed to last session as well as recommendations from the Law Department (attached). She said that in light of the new Section 5.12 approved in December 2019, this proposed language will help to guide and align with. Ms. Caira explained the proposed language which they hope to adopt.

“In cases involving construction of building or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the **site and buildings as developed and operated** will contribute significantly to the efficient use and conservation of natural resources and energy, **through some or all of the following: (a) minimizing building operating energy; (b) reducing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint.**”

The Chair opened the meeting to public comment.

*Howard Rosenof, 9 Vincent Street:* Speaking as a retired electrical engineer, Mr. Rosenof was skeptical of the city’s ability to enforce this criterion. He said that if the goal is to reduce the use of natural resources and energy, that parts A, B, and C fail to address natural resources. Mr. Rosenof also said that there would be conflict between the goals as sometimes using less energy requires a greater use of resources in materials such as insulation. He also was concerned about the relationship between cost and efficiency. The Chair responded that there is already broad language in place for special permit criterion 5 is currently too general and the goal of this item is to provide better information for the user, however, she also clarified that special permit criteria are intended to be broad. Specific rules are within the Development Standards section of the ordinances.

*Jay Walter, Green Newton:* Mr. Walter spoke on behalf of the Building Standards Committee of Green Newton. He said that Green Newton supports the changes as they find them to be more specific than the criterion currently in place.

*Nathaniel Lichtin, 53 Pine Crest Road:* Mr. Lichtin made three comments. First, he said that “some or all” could be replaced with “through appropriate” to show all three and still allow developers to avoid one if their project cannot meet it. Secondly, he suggested to add “or eliminate” to “minimize or eliminate” regarding the use of fossil fuels to continue to work towards the Climate Action Plan Goals. Third, he agreed that “transportation plan” is a better choice of language than “to or from the site” saying that it allows for the consideration of offsite trips.

The Committee voted 8-0 to close the public hearing.

The Committee deliberated with input from city staff and the Planning Board to wordsmith the final language.

Could “some or all” be removed and simply list the three issue areas, which would require developers to meet all three? Andrew Lee, assistant city solicitor, said that the Law Department recommends keeping the language broad enough to allow discretion. Ms. Cairra added that for some projects it may not be feasible to address all three, so having this discretion allows them to focus that much more on those they are able to meet.

The term “reducing the use of fossil fuels” should be amended to “minimizing the use of fossil fuels.” There was general agreement that this language is clearer with respect to Newton’s long term goal of eliminating fossil fuel consumption.

Ann Berwick, Co-director of sustainability, asked if the term “some or all” should instead be have “if appropriate.” Atty. Lee responded that there was no need for this change as “if appropriate” is already inherent within the language.

For clarity, “developed” was changed to “designed and constructed.”

The overall goal of this process should be to continue moving Newton forward to meeting its goals detailed in the Climate Action Plan.

Upon a motion by Vice Chair Parisca, seconded by Mr. Steele, and unanimously approved, the Planning Board recommending the following language as amended.

“In cases involving construction of building or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the **site and buildings as designed, constructed and operated** will contribute significantly to the efficient use and conservation of natural resources and energy, **including through some or all of the following: (a) minimizing operating energy; (b) minimizing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint.**”

Councilor Krintzman moved approval which carried 8-0.

**#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.

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

**Notes:** The Chair noted that the Planning Department sent a narrated bibliography of meeting reports from the previous term for all meetings dealing with Zoning Redesign before the item was tabled last Spring, including links to those reports. It will be the practice from this point forward to provide reading material a week in advance of regular Zoning & Planning meetings to be sure that the Committee and Council have plenty of time to review materials. In addition, discussions regarding Committee process through this task will generally be reserved until after each presentation and discussion.

The Chair opened the item explaining that the Planning Department has a presentation that will address questions raised at the previous meeting, including examples from within the community as requested, and will then outline next steps.

Ms. Caira presented to the Committee; her PowerPoint is attached to this report.

The objective of this presentation was to continue to provide an overview of the draft ordinance, to frame the issues brought up by the Committee, and to share the next steps in the schedule. The overall goal of the process is to create a simple and concise document, which reduces the overall level of nonconformity and reflects the goals of the City. The October 2018 draft ordinance has been broken up into 12 articles consisting of standards for districts, development, use, and how to address nonconformity, administration, and definitions. The key details from the presentation are as follows:

Key changes in the proposed draft from the existing ordinance include: regulating frontage only instead of frontage and minimum lot size; expanding lot coverage to include all impervious areas; regulating building type (which includes a building footprint and a number of stories) instead of utilizing floor area ratios; and incorporating regulations around fenestration and roof type.

Architectural style is not covered by the proposed ordinance.

Currently, building size is determined by the total lot size. The proposed ordinance ties building type to the district and there is not a direct correlation between lot size and building size. Double lots and other irregular lots, such as those with “tails” currently allow for homes that may be significantly larger than those in the neighborhood. Context-based zoning would seek to change this and make house size determined by the neighborhood context instead.

The courtyard cluster for housing was also brought up as one of the new ordinance components, which could be an alternative to single family attached housing. It was discussed that it will be important to consider where courtyard cluster housing is allowed and how large the individual homes can be.

The presentation included a brief update on the work that had been done on the various articles since the October 2018 draft, highlighting the questions and issues that were raised through Committee meetings and ward meetings. The presentation also went into detail on the adjustments proposed by the Planning Department to the residence districts in February 2019 as a result of community meetings and the build out analysis. That 2018 October draft of the ordinance resulted in a higher likelihood of teardowns and more bulk than could be built using the existing ordinance. The adjustments proposed in February 2019 address these concerns and greatly reduce the teardown vulnerability and the bulk, however they do result in slightly higher nonconformities. The adjustments also responded to feedback that the R3 zone was too dense as well as and opposition to the proximity rule.

Two case studies were shown to demonstrate how the building might change under the draft zoning. First, the presentation referred to the construction at 45 Beethoven Avenue and demonstrated how under the proposed ordinance, its size would have been limited. The second property referred to is at 220-222 Austin Street. Pointed out on this property is a more prominent garage than front door and use of a basement floor to create a de facto three-story building.

Under the new draft zoning, the basement would be counted as a story since more than 50 percent of its front is exposed.

The next steps in the process were lined out. The March 9<sup>th</sup> meeting will focus on Article 3, Residence Districts.

The following comments and questions were raised by the Committee.

Requests were made to have a side by side comparison not just between the changing variations of the proposed ordinance, but also with the current ordinance.

*What is the problem with having so many nonconforming lots?*

Ms. Caira answered that if only the lot is nonconforming, then it will not be a problem for the homeowner unless they attempt to tear the house down. However, most other nonconformities increase the chance of needing a special permit for potentially minor projects and reduces predictability in neighborhoods.

When a property is nonconforming, there is broader discretion and it makes it harder to understand what the neighborhood can look like.

About a third of special permits are for the extensions of nonconformities.

*How will Zoning Redesign be handled alongside the Washington Street Vision Plan?*

Ms. Caira answered that the intention is that the Vision Plan will be rolled into the zoning redesign effort.

*How will courtyard clusters be restricted?*

Is there a formula in place for parking maximums? Ms. Caira answered that both still need to be discussed.

*Has there been talk with developers and builders yet regarding the reduction of building footprints and the smaller houses this will lead to?*

Ms. Caira answered that this discussion has yet to happen.

*What pieces of the effort can be dealt with on their own through simply readjusting the current ordinance?*

The Chair explained it is the intention to take up discreet items along with revising the whole ordinance. She suggested that as the committee moves further into the review it should become apparent what can be separated versus what sections require careful integration and must be considered as a whole.

As zoning redesign moves forward, both the Committee and the Planning Department should be careful not to create unintentional incentives for teardowns. An example of this would be a

developer buying multiple lots and demolishing the houses there in order to build larger constructions. Ms. Caira explained that context-based zoning would seek to address this.

*Will there be exceptions to allow those with larger lots to build what smaller lots are not capable of?*

Request for the Planning Department to provide a more comprehensive calculation of how many nonconforming properties will remain.

A robust citizen engagement plan is being planned. There will be continual efforts to determine the best way to incorporate the public on Zoning Redesign.

Councilor Danberg moved hold on item #88-20. The Committee voted 8-0 to hold.

**#99-20      Referred to Zoning & Planning and Programs & Services Committees**

HER HONOR THE MAYOR requesting amendments to the City of Newton Ordinances, Chapters 3, 7, 10, 13, 17, 18, 20, 21, 22 and 30 to rename the Department of Parks & Recreation to the Department of Parks, Recreation and Culture.

**Action:**      Zoning and Planning No Action Necessary 8-0

**Notes:**      Councilor Krintzman moved No Action Necessary on item #99-20. The Committee voted 8-0 No Action Necessary.

The meeting adjourned at 9:20 PM.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**