



Zoning & Planning Committee Report

City of Newton In City Council

Monday, April 27, 2020

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

Also Present: Councilors Bowman, Laredo, Kelley, Greenberg, Markiewicz, Gentile, Downs, Auchincloss, Lipof, and Malakie

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

City Staff: Barney Heath, Director of Planning and Development; Zachery LeMel, Chief of Long-Range Planning; Gabriel Holbrow, Community Engagement Specialist; Nathan Giacalone, Committee Clerk

#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 introduced the meeting, noting that the focus is on building components with a particular emphasis on garages and driveways, addressing item #30-20. She reiterated that the Planning Memo and reading assignments were provided in the April 17th Friday Packet to inform this meeting.

Barney Heath, Director of Planning and Development, Zachery LeMel, Chief of Long-Range Planning, and Gabriel Holbrow, Community Engagement Specialist, joined the Committee to present on this item. The presentation is attached to this report.

Mr. LeMel led the presentation, explaining its two parts:

(I) examining garage and driveway design standards and (II) building components as presented in Article 3. Building components will be given greater attention at the next meeting covering Zoning Redesign (May 19).

Mr. LeMel explained the background of the deferred garage ordinance and its place within the Zoning Redesign discussion. The garage ordinance adopted in 2016 caused unanticipated problems upon implementation.

Concerns with the deferred garage ordinance include:

- There is no direct statement of intent

- Did not work properly, technical issues related to proper sizing of garages
- Insufficient flexibility, too restrictive in locating garages and not enough alternatives
- Unclear enforcement, exemptions determined by Inspectional Services Department Commissioner and unclear wording

The item was temporarily deferred, then implementation delayed again multiple times. It was most recently deferred in November 2019. It is currently set to go into effect in July 2020. The draft zoning ordinance in 2018 was an attempt to rectify these problems in a holistic manner as part of the larger Zoning Redesign effort. However, staff believe the current draft within Article 3, shared in the April 17th packet, needs additional work to fully resolve the issues above and achieve the stated goals that remain relevant since the Council first took up this issue in 2015.

In the proposed updates to the garage ordinance, there are multiple goals within a statement of intent addressing design, safety, and sustainability in order to prevent the visual dominance of garages and minimize paving. Together, these goals will be used to enhance the streetscape and pedestrian experience and ensure that garages are scaled subordinate to the main houses so that the most prominent spaces are for people, not cars. It is proposed generally that front facing garages be positioned behind the front façade of the house and that curb cuts be narrowed in order to promote a safer pedestrian experience. Wide curb cuts allow cars to enter and exit driveways at faster speeds.

The proposed ordinance includes the following:

To make living spaces more prominent, enhance the streetscape, and focus on pedestrians: limit the garage size with individual doors no wider than eight feet, enforce a 10 foot wide driveway entrance to the street, and greater separation between curb cuts/driveways on a single property when appropriate (i.e. two-family homes where each unit has its own garage/driveway).

The revised text will also allow for side-facing garages to be forward of the main house but designed using windows and other elements to blend with the house design.

To prevent garage-dominated facades on narrow lots, rear garages would be incentivized. Ribbon driveways, with driveway tacks or fully pervious paving, would be suggested to reduce impervious surface on the site.

Following the overview of how specific technical changes to the standards and regulations within the garage design standards (sec. 3.4.2) and driveway access (sec. 3.7.1.E) could better achieve the City's goals, Mr. LeMel went through remaining questions to receive further clarity from the Committee on how to revise the draft ordinances. These include:

- Should the garage ordinance apply to all residential districts? As currently written, R1 is excluded. If included, maybe houses set back from the street by a certain minimum distance can be excluded?
- Are there additional ways to handle narrow lots? Current thinking looks to incentivize rear, attached or detached, garages typically accessed by a ribbon driveway along the side yard.

Are there additional ways to handle narrow houses with a front façade of less than 24 feet? Mr. LeMel presented an example from Portland, Oregon's Zoning Ordinance that allows a one car garage in such cases, as long as certain design details are met.

Councilor comments and questions follow in italic.

A: Answers show in regular font.

This presentation was incredibly thorough, but one area it does not address is when a garage is only a couple of feet in front of the house to align with the front porch. There are some examples of this on Commonwealth Avenue. This is not allowed under the ordinance and the issue should be examined further.

Two-family houses on narrow lots which are dominated by a garage require further investigation to determine if there is an alternative solution to this problem.

If larger garage doors are going to be limited to 8 feet wide, is that wide enough for most vehicles?

A: 8 feet is a standard measurement provided by our consultant. Typical standards show a range, and 8 feet is a minimum. As this ordinance moves forward staff will meet with members of the engineering department, architects and builders, and other relevant professionals to ensure all standards not only achieve the stated goals, but also feasibly work.

This presentation showed that a lot of good work has been done on the ordinance since it was first written. Can the garage ordinance be brought forward on its own as an interim change?

A: Addressing the garage ordinance on its own would add extra time and potentially push Zoning Redesign off schedule. It could be taken up as a separate piece, but it would take some time to figure out how to do this right.

Garages are increasingly attached to houses so this is something that the new garage ordinance should easily allow for.

Changes will also require coordination with updating of our engineering codes.

Taking up the garage item on its own should take no extra time. While it will take a lot of time to get right, it should not disrupt the whole Zoning Redesign process.

Where did the maximum door width of 8 feet come from? This should be discussed with architects and engineers to see if it is wide enough for modern vehicles?

Though we want narrower curb cuts and driveways, we also need to consider how this would impact winter snow clearance.

A: (another Councilor responded) They have a 10-foot-wide driveway and that even during the multiple blizzards of 2015 they had enough space for snow clearance.

It is time to see some actual draft ordinance language to continue in the zoning redesign discussion process. While broad concepts are important, it's the actual language of the ordinance that matters the most.

(Chair's Note: The most up to date ordinance is the October 2018 version, and redraft recent redrafts provided to the Council in the past few weeks include Articles 2, 3, and 9.)

Several Councilors noted a desire to see more input/field testing from architects.

There was general agreement among multiple Councilors and Committee members that the new garage ordinance regulations should also apply to R1 lots.

To promote sustainability, can more pervious materials and alternative methods be encouraged for driveways such as pavers instead of tarmac? Such alternative materials and techniques could also be used to reduce the heat island effect.

How many lots would be able to accommodate this garage ordinance?

When garages are placed behind a house, this removes backyard space.

Living space above garages, such as the example provided from Portland, Oregon are an interesting idea that should be examined further to see if they would be feasible in Newton.

Attached garages are fine, but are there other alternatives the City can explore?

When are building a new home on a corner lot, what is required if you want to move the driveway to the other street?

A: On corner lots you can designate the front elevation through the development plans and documentation. Moving the driveway location does not require a special permit.

(Follow up confirmed by the Planning Department: Nowhere in the draft language does it say that a special permit is required. Section 2.2.F.1a determines that a property owner, at the time of building permit, may determine their primary front lot line when on a corner lot.)

Mr. LeMel resumed his presentation with Part II and the introduction to building components.

The intent of this section is to achieve predictability but allow flexibility, and to create a code that's easy to use, understand, and interpret. The objective is to create contextual neighborhoods that also express individuality without falling into "cookie cutter" territory.

Building components are add-on features to a home that do not increase its habitable space such as porches and bay windows. The new ordinance would seek to control building components enough so that they do not increase houses past a contextual size. However, building components can also provide for better and more consistent flexibility. This is summarized with a chart on page 42 of the PowerPoint which lists the different Building Types in the proposed ordinance and their maximum square footage

building footprints by-right compared to what is allowed with a special permit. Though not all building types necessarily work with all building components.

Following the overview of Building Components Mr. LeMel went through remaining questions for the Committee to think about leading up to the next ZAP meeting when Building Components will be discussed in greater detail (May 19). The main question was should Building Components replace the current draft zoning ordinances allowance of increasing a Building Type footprint by Special Permit? Building Components and Special Permits both allow for flexibility within the code, but staff encouraged the Committee to view Building Components as a potential better method.

Committee member and Councilor questions, answers, and comments are as follows:

The comparisons given in this presentation were incredibly helpful. The Committee should continue to be given the comparisons to make it easier to understand how the code would be changed.

As the new ordinance is crafted, care should be taken to avoid allowing too many building components as we also must keep building massing and footprints in line with its climate goals.

Recent ordinances passed to encourage energy conservation and efficiency allow some of these components within the setback.

How many houses are being built by special permit versus by-right? Knowing this will help better inform the Council as Zoning Redesign progresses.

We should pursue an ordinance that is predictable and flexible. Residents should not need a special permit to add something like a mudroom onto their house.

The Council should be careful if it decides to allow more special permit flexibility as residents should still be able to know what to expect.

If Newton is going to abandon FAR in favor of limiting footprint and square footage, would certain building components that actually do add to the footprint be allowed by-right when the building is being constructed or some time after construction is finished

A: This needs to be considered further before a clearer answer can be given and will be addressed at the next ZAP meeting where Zoning Redesign is discussed.

Caps on what is allowed by special permit may not be a good idea. Unlike other parts of the country, Newton has varied topography, and its lots come in many different shapes and sizes. What works for one lot may not work for another and it is important to retain the ability to easily adapt as lots and buildings are altered.

If I want to build an addition onto my house such as a family room in the back, is that considered a building component, and would it be allowed as a matter of right?

A: The proposal is that a project like this would be allowed even if you have been built out to your maximum building footprint according to your building type. Of course, the addition would have to comply with setback and lot coverage requirements, as well as any other requirement of the specific Building Component being implemented as an addition.

This would allow building a bigger house by-right than what is currently allowed by-right. This area will require more thought to minimize loopholes such as this.

The ribbon driveway is an example of a creative way to meet sustainability goals.

The Planning Department has been working with a team of professional consultants to test their ideas and illustrate concepts.

There is an example of an Oak Hill Park house that was unable to attain a special permit for an accessory apartment as it had built out to its limits. If special permit standards are going to be relaxed, the City should be careful not to relax them too much as this is something many residents are concerned about.

Zoning Redesign should aim for less need for special permits. This may require avoiding a piecemeal approach.

Going forward, the plan is to start with the residence districts as they are predicted to require the most work.

Several Committee members and Councilors suggested that greater review might show that Newton does not need to redo its entire zoning code. Many others said that the existing code is in poor shape, so that the only option is to substantially rewrite the code.

All praised Mr. LeMel on an excellent and well-organized presentation, noting that the illustrations added a great deal of clarity to the issues.

Mr. LeMel concluded the presentation with a brief review of the public engagement strategy as well as the calendar for zoning redesign. Due to the ongoing COVID-19 crisis, the Planning Department is going to hold Zoom office hours to answer residents' questions. Residents will be able to reserve time slots for this.

With the calendar for zoning redesign, Mr. LeMel explained the plan for moving forward. Currently, the Committee is focusing on Article 3 Residence Districts. This conversation is expected to conclude by August 2020, and with taking a straw vote, as the Committee moves onto the next phase of zoning redesign. If discussions remain on schedule, then the City Council will hold a vote on the final ordinance by December 2021 before the end of the term.

Committee member and Councilor questions, answers, and comments are in italic as follows:

It probably is not a good idea to plan for the final vote on this ordinance to be close to the end of the term as the City Council has in the past tried to avoid placing votes of such magnitude towards the end of term.

Councilor Leary said that in her mind, how we proceed through the subject requires consideration of and agreement on the goals and objectives we seek to meet. She said she had been thinking about how to phrase these, and offered some broad goals that the Committee could use to guide its further discussion on Zoning Redesign:

- Must lead to sustainable community development, including wise environmental stewardship, fiscal strength, and meeting the needs of the community*
- Housing must serve all Newton families and individuals with a broad range of incomes, higher density housing development must be concentrated near public transit and amenities, to make the city more walkable*
- New development must work in context with what exists now that we want to preserve and to fit within the objectives of what we want to see.*

Newton should learn from the mistakes Somerville made in its zoning redesign process so that its own does not take as long.

Newton should not align its new zoning to that already in place within village centers as those rules are not working to create the places we want. Village Centers have serious traffic congestion and local businesses have trouble staying open. Newton needs a new approach in its new zoning (of village centers and commercial areas).

Economic and environmental sustainability must be a goal. Newton has good zoning bones, but many residents are rightly concerned with overly large and out of context new construction.

There is a better sense of community in pedestrian focused areas so the zoning ordinance should seek to incentivize that.

The toolbox used to craft the proposed ordinance is exciting as it will improve the ability to do business within Newton.

Some members asked where the goals spoken of throughout the zoning redesign discussions have come from.

A: *While there was never a formal vote, goals and objectives have been derived from adopted plans and the ongoing work of the ZAP Committee has reaffirmed these goals.*

Councilor Krintzman proposed a straw vote on the broad goals to clarify direction for the Committee.

Several councilors requested that the specific language be made available to view prior to accepting the goal statements. The Clerk put the proposed language on a shared screen. A Councilor asked that the wording reflect the ends to be served (goals and objectives), but not the specific means by which we may achieve them.

Councilor Leary accepted several friendly amendments to the goals she had drafted. The final language accepted by the Committee was as Follows:

1. Housing:
A zoning code more responsive to a demand for housing that serves a range of incomes
Promote sustainable community development patterns
2. Sustainability:
Environmental stewardship, fiscal strength and meeting community needs,
3. Context:
Preserve and protect what we like in our neighborhoods.
Encourage new development to fit in the context of our neighborhoods and villages.

The Committee straw vote was unanimous 8-0 in favor of these goals.

Can the garage item be taken out on its own? What is the effort of Planning on this item?

A: This has purposely been left ambiguous for this meeting, but there would need to be coordination between Planning, ISD, and Engineering before a timeframe is clear. Hopefully there will be a well-developed approach for this effort by the May 19 Zoning and Planning meeting.

Councilor Leary moved hold which carried 8-0.

#30-20 **Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages**
COUNCILOR ALBRIGHT requesting amendment to Chapter 30 of Newton’s Zoning Ordinance, section 3.4.4 on garages (delayed implementation until July 1). This ordinance has been delayed five times.

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

Notes: Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with item #88-20.

#38-20 **Request for discussion relative to single-family attached dwellings**
COUNCILOR LAREDO requesting a review of the zoning requirements for single-family attached dwelling units.

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

Notes: Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with item #88-20.

#148-20 **Request to amend Chapter 30 to eliminate parking minimums**
COUNCILORS ALBRIGHT, AUCHINCLOSS, BOWMAN, CROSSLEY, DANBERG, DOWNS, GENTILE, GREENBERG, KALIS, KELLEY, LIPOF, MARKIEWICZ, NOEL, KRINTZMAN, AND RYAN seeking amendments to Chapter of the Revised City of Newton Ordinances to eliminate mandated parking minimums to improve vitality of local businesses, reduce the cost of housing, and support the climate action goals.

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

Notes: Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with item #88-20.

The meeting adjourned at 10:28 PM.

Respectfully Submitted,

Deborah J. Crossley, Chair