

# City of Newton Landmark Ordinance

5/7/2020 – Working Group  
Proposed Amendments

# Eligibility for nomination -current

- Properties individually listed on the National Register
- Properties listed on the National Register as part of an historic district, but not individually
- Properties that are certified by the Massachusetts Historical Commission as eligible for listing on the National Register, either individually or as part of a district

# Eligibility for nomination - proposed

- Properties individually listed on the National Register
- Properties listed on the National Register as part of an historic district, but not individually
- Properties determined to be historically significant after a finding that the property is
  - importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the City of Newton, the Commonwealth of Massachusetts or the United States of America Historically or architecturally important by reason of period, style, method of construction or associated with a particular architect or builder;
  - historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

# Who may nominate

## Current

- Members of the City Council
- The Mayor
- The Director of Planning and Development
- The Commissioner of Inspectional Services
- Members of the Newton Historical Commission (NHC)

## Proposed

- Owners of the Property
- Members of the City Council elected from the ward in which the property is situated **and** a member of the NHC
- The Mayor **and** a member of the NHC
- The Director of Planning and Development **and** a member of the NHC
- The Commissioner of Inspectional Services **and** a member of the NHC
- At least two members of the NHC

# Notice of nomination

## Current

- To the owner of the nominated property
- Upon the NHC's receipt of the written nomination
- No particular method of notice is prescribed

## Proposed

- To the owner of the nominated property and to the immediate abutters
- Within 14 days after the NHC receives the petition for nomination
- By certified mail to the owner and regular mail to the immediate abutters
- Notice must include the petition and date of the commission meeting to review the nomination

# Acceptance or rejection of nomination - current

- The NHC may only reject the nomination of a property that is listed on the National Register as part of an historic district, but not individually.
- Nominations of properties that are listed on the National Register may not be rejected and no additional investigation and report on the property shall be required.

# Acceptance or rejection of nomination - proposed

- The NHC may vote to reject or accept any nomination. The NHC may accept a nomination upon an initial determination that the property may meet one or more of the following criteria:
  - the property significantly represents an architectural type, style or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detailing, materials or craftsmanship;
  - the property is meaningfully associated with a person or persons who significantly contributed to the cultural, historic, architectural or archeological aspect of the development of the city of Newton, Commonwealth of Massachusetts, or the United States of America;
  - the property's identification as a notable work of an architect, designer, engineer or builder whose work is significant in the history or development of the city of Newton, Commonwealth of Massachusetts or the United States of America; or
  - historic events or activities occurred at the property that have made an outstanding contribution to, or which best represent some important aspect of, the history of the city of Newton, Commonwealth of Massachusetts or the United States of America.

### Current

- The current ordinance does not require that a meeting be held to review the nomination.
- The NHC's practice is to hold a meeting to review the nomination of a property that is listed on the National Register as part of an historic district, but not individually.

### Proposed

- The NHC must hold a meeting to consider any petition for nomination.
- The meeting must be held within 45 to 90 days from the date of the NHC's receipt of the petition.
- The owner and immediate abutters will have a minimum of 31 days notice of this meeting.
- At or after the meeting, the NHC must vote on whether to reject the nomination or accept the nomination and conduct further study of the nominated property.

## NHC meeting to review nomination



# Designation – public hearing notice - Current

- The NHC must hold a public hearing prior to any designation of landmarks.
- Minimum of 14 days notice of public hearing
- Notice by publication and mailing to the owner and every property owner abutting (immediate abutters) the nominated property
- Notice must also be given to the Mayor, the Planning Board and the City Clerk

# Designation – public hearing notice - proposed

- The NHC must hold a public hearing prior to any designation of landmarks.
- The meeting must be held within 30 to 90 days from the date of the NHC's vote to accept the nomination.
- The public hearing will be held within 75 to 180 days from the date the NHC received the petition for nomination.
- Minimum of 14 days notice of public hearing
- Notice by publication and certified mail to the owner and regular mail to abutters (within 300 feet of the nominated property).
- Notice must also be given to the Mayor, the Planning Board and the City Clerk

### Current

- The NHC must transmit the agenda for the public hearing to the Planning Board
- The Planning Board may make a recommendation to the NHC

### Proposed

- The NHC must notify the Planning and Development Board upon the acceptance of a nomination
- The Planning and Development Board may make a recommendation to the NHC
- The recommendation must evaluate the proposed designation in relation to the City's adopted policies and plans
- The recommendation may be made any time prior to the public hearing

## Other boards/commissions

# Designation – Criteria - current

- The NHC may designate a property which it determines to be either:
  - importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic, or social history of the city or the commonwealth; or
  - historically or architecturally significant (in terms of period, style, method of construction, or association with a famous architect or builder) either by itself or in the context of a group of structures and may order amendments to any designation of landmark theretofore made.
- The criteria for designation is almost identical to the definition of “historically significant” in the demolition delay ordinance

- The NHC may designate a property which it determines to meet one or more of the following criteria:
  - the property significantly represents an architectural type, style or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detailing, materials or craftsmanship;
  - the property is meaningfully associated with a person or persons who significantly contributed to the cultural, historic, architectural or archeological aspect of the development of the city of Newton, Commonwealth of Massachusetts, or the United States of America;
  - the property's identification as a notable work of an architect, designer, engineer or builder whose work is significant in the history or development of the city of Newton, Commonwealth of Massachusetts or the United States of America; or
  - historic events or activities occurred at the property that have made an outstanding contribution to, or which best represent some important aspect of, the history of the city of Newton, Commonwealth of Massachusetts or the United States of America.

## Designation – Criteria - proposed

# Vote for designation

## Current

- The NHC by a 3/4 vote of those members present may designate a property as a landmark

## Proposed

- The NHC by a 3/4 vote of those members present, but in no instance less than 4 votes in the affirmative, may designate a property as a landmark

# Designation – other considerations

## Current

- that the location and setting is compatible with future preservation and use;
- that the distinguishing characteristics of significance are for the most part original and intact or capable of restoration;
- that the existing or proposed use is compatible with the preservation and maintenance of the site.

## Proposed

- that the distinguishing characteristics of significance are for the most part original and intact or capable of restoration;
- that the property, location and setting is compatible with future preservation and maintenance; and
- the property's context in relation to the City's policies and adopted plans and the property's surrounding area.

# Amendment and Rescission

## Current

- Designation of a landmark or amendment or rescission of a previous designation is authorized.

## Proposed

- Amendment and rescission of any designation may only be made by those persons authorized to nominate a property
- Petitions for amendment or rescission must follow the same procedural requirements for petitions for designation of a property



# Administrative Review - Current

There shall be a review procedure whereby any person aggrieved by a determination of the commission may, within twenty days after the filing of the notice of such determination with the city clerk, file a written request with the commission for a review by a person or persons of competence and experience in such matters, designated by the Metropolitan Area Planning Council (MAPC).

The finding of the person or persons making such review shall be filed with the city clerk within forty-five days after the request, and shall be binding on the applicant and the commission, unless a further appeal is sought in the superior court as provided herein. (Ord. No. T-288, 9-9-93)

Sec.22-69

# Judicial Review -Current

Any person aggrieved by a determination of the commission, or by the finding of a person or persons making an administrative review as provided herein, may, within twenty days after the filing of the notice of the aforesaid determination or finding with the city clerk, appeal to the superior court sitting in equity for Middlesex County.

Sec. 22-70

# Proposals

- Remove Administrative Review and leave Judicial Review and the appeal option
- Create a local Administrative Review body

# Local Administrative Review Body - Proposed

- Closely follows the Metropolitan Area Planning Council's review procedure for appeals from local historic district commission decisions.
- The review body comprised of three members:
  - The chair of the urban design commission or their designee;
  - The chair of zoning board of appeals or their designee;
  - A chair of a historic district commission or their designee.
- Require a public hearing.
- The Working Group is finalizing their proposed draft for this section.

# Demolition by neglect

## Current

- Section 22-51. Demolition by Neglect is contained in Division 2. Demolition Delay of the City's ordinances. Demolition by Neglect only applies to landmarked properties.

## Proposed

- The proposed draft changes Demolition by Neglect to Section 22-75 and moves it to Division 3. Landmarks.

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5/19/2020 – Working Group  
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  - The chair of the urban design commission or their designee;
  - The chair of zoning board of appeals or their designee;
  - A chair of a historic district commission or their designee.
- A person aggrieved has 20 days to file a request for review.
- Requires a public hearing
- The review body must submit its findings within 45 days.
- The review body shall uphold the NHC decision unless it finds the action to be arbitrary, capricious, or based on legally untenable grounds.

# Paint and Color

## Current

- A change in paint or color of an exterior architectural feature of a landmark requires the owner to seek a certificate of appropriateness, non-applicability or hardship from the NHC

## Proposed

- A change in paint or color of a landmarked property requires a certificate of appropriateness, non-applicability or hardship from the NHC only if the color was specifically identified for preservation in the designation