



## Zoning & Planning Committee Report

### City of Newton In City Council

**Thursday, October 1, 2020**

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

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

**Planning & Development Board:** Peter Doeringer (Chair), Jennifer Molinsky, Christopher Steele, Sonia Parisca, and Kevin McCormick

**City Staff:** Zachery LeMel, Chief of Long-Range Planning; Cat Kemmett, Associate Planner; Barney Heath, Director of Planning and Development; Jennifer Caira, Deputy Director of Planning; Andrew Lee, Assistant City Solicitor; Nevena Pilpovic-Wengler, Community Planning/Engagement Specialist; David Olson, City Clerk; Jonathan Yeo, Chief Operating Officer; Nathan Giacalone, Committee Clerk

**#30-20(2) Amendment to 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~~ April 1, 2021). This ordinance has been delayed five times.

**Action:** Zoning and Planning Approved with implementation date of April 1, 2021 6-0-2 (Councilors Krintzman and Wright abstained), pending Planning Board approval: Public Hearing Closed 8-0

**Notes:** The Committee was joined on this item by Andrew Lee, Assistant City Solicitor. The Chair and Atty. Lee explained that the purpose of this item is to rectify the procedural errors that took place when ordinance #3.4.4 was amended to defer implementation to January 31, 2022 in June of 2020 (#30-20). He noted that no public hearing was held prior to the vote to defer the implementation date and the full Council voted to approve the deferral with fifteen Councilors in favor, where 16 were required. Atty. Lee noted that the Planning Board must hold a public hearing and provide a recommendation prior to the full Council vote on #30-20(2). Atty. Lee stated that the effective date of the amendment to the garage ordinance is July 1, 2020, the last valid deferral effective date which was passed in December 2019.

He noted that the amendment has not been enforced since July 2020, and stated that the Law Department believes the Council may still defer implementation.

Committee members explained that the objective of the deferral was to defer implementation of the garage ordinance until after zoning redesign is completed.

The Chair stated her intention to conduct the Public Hearing, then table discussion on this item until after the substantive presentation on the garage and driveway standards proposed in the new ordinance, to help inform discussion before the vote.

The Public Hearing was opened:

Matt Genaze, an architect with Zero Energy Design, 156 Milk Street #3, Boston, is currently serving a client in Newton for the past two months. Mr. Genaze said that the Building Department on multiple occasions told him that the ordinance is not in effect, so the design has developed under this premise. He said that he supports the ordinance but requested that the effective date be pushed out for six months to allow any current projects to be completed.

Jay Walter, 83 Pembroke Street, said that he is in favor of deferring the ordinance to 2022 and that it is not currently in the best interests of the city to amend this section as a standalone effort as Planning Department resources would be diverted away from Zoning Redesign efforts.

Debbie Kelly Milburn, Newton Corner, said that the garage ordinance should be implemented as soon as possible. She said that she understood it to be delayed several times and that implementing it did not seem very difficult to her.

Ann Dorfman, 9 Henshaw Street, said that it is important to implement this ordinance quickly because too many houses are being built as eyesores without the ordinance. Current projects should be allowed to be completed but moving forward all new projects should be enforced under the new garage ordinance. Ms. Dorfman also said that she had done much of the research prior to the passage of the garage ordinance in 2016. Deferring it until 2022 will not solve the problem of “snout houses” or generate more affordable housing. If developers were unable to build oversized garages, then it will also preserve the current affordable housing stock because enabling these large garage front houses make the property more valuable to the developer.

Dan Powdermaker, 119 Lincoln Street, spoke in favor of deferral, making it coterminous with zoning redesign. There are many problems in the current zoning that need to be addressed collectively and getting sidetracked with addressing the garage ordinance will be bad for the City.

Debra Waller, 10 Bonaire Circle, spoke in favor of keeping the garage ordinance and not postponing it. She said that everyone hates the large garages being built and there is little attention on zoning redesign (from the public), which is keeping the garage ordinance hostage. There are always going to be projects in the pipeline so this ordinance should take effect.

Stephen Eastham, 134 Fairway Drive, said that he agreed with the ordinance as a homeowner, but that adequate time should be given for new and potential projects to adjust to it.

Rena Getz, Pine Ridge Road, said that if ISD has not been informing applicants for the past six months that the garage ordinance is not in effect, that is not a Zoning and Planning issue. The Council should adhere to what it has legislated but correct the errors that have been made and let it go into effect.

Lisa Monahan, 1105 Walnut Street, said that she is a member of one of the architect and building professional groups being consulted by the Planning Department and that she also thinks this item should be postponed. It would be a mistake to address this on its own and try to fix the zoning code in a piecemeal fashion.

Councilor Danberg moved to close the Public Hearing which carried 8-0.

Councilor Baker moved to amend ordinance 3.4.4 by inserting the phrase 'except by special permit' in 3.4.4 line C1. Attorney Lee stated this would constitute a specific change to the ordinance that has not been properly noticed. Others agreed. After much discussion, councilor Baker rescinded his motion in favor of one by Councilor Albright, who moved to defer to an implementation date of April 1, 2021. This is in order to allow time to thoughtfully amend the current ordinance based upon the extensive work the department has begun on this section. The amendment carried 6-0-2 (Councilors Krintzman and Wright abstained). This amendment may not be voted in full Council until the Planning Board holds a public hearing and provides a recommendation to the Council.

**#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:**            Director of Planning Barney Heath, Deputy Director of Planning Jennifer Caira, and Chief of Long-Range Planning Zachery LeMel joined the Committee for discussion of the item. Mr. LeMel shared a PowerPoint (copy attached), outlining the progress and guiding questions regarding garage design standards and parking requirements.

**Garage Design Standards/Driveway Access:**

Mr. LeMel said that the main objectives of garage and driveway standards within the proposed ordinance are to limit the visual dominance of garages and improve walkability and public safety within Newton. These objectives are consistent with the goals in the Climate Action Plan.

There are unfortunate examples in Newton of garages and driveways that dominate the streetscapes and threaten safe pedestrian travel. Tanglewood Road in Ward 8 is a street with homes in which the front façade is almost entirely garage. This results in far more sidewalk dedicated to curb cuts for vehicles than for pedestrians.

The proposed code requires a street facing garage to be set back from the primary front elevation of the house. However, if there is a front porch the garage may align with the front of the house. Garage doors on a street-facing garage may be no wider than nine feet. The largest SUVs measure 80.5 inches (6'-8.5") wide, so 9 feet will easily accommodate these vehicles. Building professionals recommended this increase from the 8-foot maximum used in an earlier draft. The width of a front-facing garage must also be no more than half of the width of the main house regardless of the number of units.

After consultation with the Engineering Department, Planning recommends that there be a maximum width for one-way versus two-way driveways, proposed at 10 feet and 20 feet respectively. The number of units in the building will also determine the size and access points for the driveway. The minimum distance the driveway needs to extend into the property before expanding for garage access depends on the district. We propose that driveways in the less dense R1 and R2 districts must extend the maximum width a minimum of 10 feet into the property, while in the denser R3, R4, and N districts it must extend its maximum width 5 feet into the property. In the previous proposal, this maximum was set at 10 feet to extend into the property for all lots. This did not take smaller or irregular lots, common in R3, R4, and N, which have smaller front setback requirements, into account.

Mr. LeMel raised a discussion question of whether the proposed ordinance appeared to be achieving its main goal of limiting the visual impact of garages. There were multiple topics relating to this point that he asked the Committee to address:

- Should garages set back more than 70 feet from the lot line be exempt from visual standards?
- Should driveways be allowed within the side setback if there is a minimum three-foot buffer from the lot line?
- Should a second curb cut require a special permit?
- Does limiting the width of a curb cut and the driveway at the lot line reduce the visual impact and increase pedestrian safety?

Mr. LeMel mentioned the similarities between the current and proposed ordinances, saying that both set a maximum of a three-car garage, and at 700 square feet detached garages are considered accessory buildings and fall under those standards. The main issue being brought up regarding garages being built today is that these are the only regulations covering them. He also mentioned that the current ordinance does not address driveways other than at entry and exit points. It also fails to differentiate between driveways for single-family and multi-family residences. He said that if a goal of the proposed zoning is to support the Climate Action Plan and incentivize a car-free lifestyle, then it should ensure as little paving as possible. The proposed ordinance also does not allow parking stalls between the front of the building and the lot line.

Mr. LeMel concluded his presentation and several Councilors thanked him, saying that his presentation answered many questions they had.

***Discussion:***

The Chair asked for clarification on whether the previous ordinance intended that a garage could equal the front elevation of the main house or be 50 percent of the combined house and garage. Committee members responded that due to the prevalence of narrow lots within the City, requiring that a garage could only be up to 40 percent of the front elevation including the garage had proved problematic within the deferred ordinance, so the 50 percent of the combined total should be reconsidered.

***Committee Member Comments:***

The Committee expressed general consensus on the following points:

- The proposed ordinance is moving in the right direction on garages
- Garage doors should be no more than 9' wide to reduce the visual impact
- Garages can align with the front of the house if there is a front porch on the home
- The maximum width of a garage being set at 40 percent of the main structure is too restrictive, 50 percent is a better fit.

**C:** It should be noted that the changes in the proposed ordinance will cover redevelopment and new construction, but these standards will also create significant numbers of nonconforming properties if enacted. It is wise to limit the visual impact of garages through limiting driveway widths and breaking up large doors.

**Q:** What happens to residents whose properties would be made nonconforming by the ordinance? There needs to be a conversation about this.

**A:** As is already the case, legal protections are afforded to the owner. Nobody will be asked to change an existing nonconformity and they may apply for a special permit if they wish to modify the property. Becoming legally non-conforming is not harmful to a property owner.

**C:** Certain designs feature the garage at the front of the house without a porch and look visually appealing. To expand on the question about visual standards after 70 feet, it should be discussed whether this would also exempt garages from the door standards if they are not visible from the street. The three-foot side buffer sounds like a good idea, but this may be hard to achieve on many narrow lots. On shared driveways, it may be good to allow for more parking space to accommodate both neighbors.

**A:** It does not seem that there was consensus on the Committee regarding garages lining up with the front of the house, even with a porch.

We heard concern over allowing the garage up front with the porch.

**C:** It is good to see the proposed ordinance also addressing walkability and the Climate Action Plan goals. It also demonstrates needed flexibility. Street facing garages should be set back, but the porch feature is a good idea. The 50 percent maximum for garages is also a good idea as it will cut down on their visual dominance. The proposed ordinance should also explore alternative driveway materials such as pavers to reduce the amount of black asphalt, a major cause of heat islands.

**C:** I worry about providing exemptions to garages set back more than 70 feet because on certain lots, this could allow a large three-door garage to sit in front of a house

**Q:** Based on the denser setbacks in R3, R4, and N districts, how would they fit in a two-car garage if the setback for this feature is 10 feet while that of houses in these districts is zero?

**A:** This is a situation the Committee needs to discuss, that if a house is so close to the property line, is a two-car garage appropriate under any circumstances, or are there other opportunities the property would need to limit the visual impact of a two-car garage.

**C:** The front porch concept sounds like a good concept, but it may be wise to include a special permit for this condition. Single-family houses should be allowed to have two curb cuts if they can fit them, especially on busy roads such as Washington Street. Requiring a special permit for this would prevent their overuse.

**Q:** The proposed ordinance does not allow three-car garages-a third space must be in a separate building. Elsewhere in the proposed ordinance it states that the maximum number of parking spaces is two per single-family unit, why is this?

**A:** The Planning Department is working with ISD and Law to make sure there is no conflict like this in the proposed ordinance. If a conflict is discovered in the ordinance language then it will be addressed accordingly.

**Q:** If someone must park between the street and their house in the front setback because they do not have room for a garage, what would happen to this under the proposed ordinance?

**A:** If a resident has an existing legal parking space in front of their house, it would be considered a legal nonconformity under the proposed ordinance and they would be allowed to keep it.

**Q:** What are the details for requirements of bicycle parking?

**A:** These will be covered in greater detail under Article 8 standards. If a resident does not have a garage, they will still need to provide bicycle parking.

**Q:** How are ribbon driveways factored into lot coverage?

**A:** The Planning Department is beginning to look more closely at this issue as it links to other areas of the ordinance.

**C:** The presentation clearly demonstrated the need to limit driveway width as well as the size of the garage façade. Driveways and garages need to be discussed together and more time needs to be allowed for these conversations. Overall the three-foot side buffer seems fine, but special permits should be given on narrow lots. Curb cuts should require a special permit, and double curb cuts should not be allowed because on a busy street, there will also be more foot traffic and double curb cuts are more dangerous to pedestrians. Garages set 70 feet back from the lot line should not be exempt from visual standards because as previously stated, this could allow it to be in front of a house.

**C:** The issue of “snout houses” has not yet been settled. The structures and siding material of garages should also be considered as these factors also affect visual appeal. With all the traffic, single-family houses should not have two curb cuts, but should be allowed to have a turning space. Non-asphalt materials should also be incentivized. The strip design may use less paving, but these can be a mess to clean during the winter.

**Q:** With the slide featuring a house in Oak Hill Park, will the proposed ordinance prevent a case like this which put pavement all the way to the side setbacks?

**A:** Yes, the intent of the proposed ordinance is to prevent a situation such as this.

*Other Councilor Comments:*

**Q:** Who are the architects and professionals being consulted by the Planning Department?

**A:** The Planning Department uses the consultant firm Utile and meets periodically with an architect and building professionals group.

**C:** It is troubling that the proposed ordinance seeks to limit the use of special permits while creating more nonconformities at the same time. This is an area Mr. Lee should comment on. Breaking up large garage doors and limiting the garage width to 50 percent of the main house are both good ideas. In section 3.7C of the draft ordinance, it says that a parking space cannot be bundled together with a residential unit. It is unclear how this can be as many parking spaces are, by definition, sold with a home. The 10-foot minimum for driveway extensions on certain lots is concerning as many properties cannot accommodate this. Allowing garages to be closer to the street, yet subservient to the house could be a way to promote less pavement as shorter driveways do not need as much pavement as longer, narrower ones might. This could also interfere with residents’ abilities to park in their own driveways.

**A:** The Planning Department needs to revisit the parking stall issue and speak with ISD about how enforcement would work.

**Q:** Does the ordinance have a way to handle the shorter driveways due to geographic features such as slopes as well as design features such as retaining walls and fences?

**A:** Existing nonconformities are legally protected. Slopes greater than 20 percent are an exemption as well. The Planning Department needs to give more attention to these issues.

**C:** Many of the older areas of the city such as Newton Highlands have many small and narrow driveways, often under 11 feet. These work fine and are safe for pedestrians as well. These narrow driveways, when next to retaining walls, can create issues with snow clearance, however. Two-car garages within 10 feet of the lot line are visually impactful and should be minimized. Double curb cuts should be handled through a special permit.

**C:** This can be an interesting problem to solve as the Council tries to focus on issues of massing rather than of taste, however the garage issue is an important one that needs to be fixed. There is nothing wrong with front-facing garages in general, and this ordinance will promote quality

front-facing garage designs. However, this ordinance should also take specific neighborhood conditions into account.

*Planning & Development Board Comments*

**C:** It has never been clarified why houses on corner lots are not subjected to standards for both streets rather than being exempt on one street as they are now. Though it is not normally a good idea to move through zoning reform in a piecemeal way, after reviewing the material and listening to the discussions tonight it seems like the garage issue should be able to be carved out and addressed on its own.

The Chair said that she also agrees the garage ordinance is moving in the right direction, but that some of the dimensional standards may need to be revisited in order to better accommodate the variety of lot configurations we encounter across districts. Smaller lots may not be able to accommodate some of the requirements suggested such as the 3' buffer to a driveway, which is a good idea on larger lots in R1 and R2 districts. We may want to consider tiering the standards by district to acknowledge lot size. It is hard to regulate good design, and we need to be careful to allow design flexibility. Many of the ideas suggested to balance visual impact and control safety such as curb cut limits, were not in the 2016 ordinance but are important to include. Controlling the number of curb cuts allowed by right and the distance between them is also a good idea.

Councilor Krintzman moved Hold which carried 8-0.

**#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:**      The presentation prepared for this item was tabled due to the hour and will be discussed at the next meeting. Councilor Krintzman moved Hold which carried 8-0.

The meeting adjourned at 10:39 pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**