



Zoning & Planning Committee **Report**

City of Newton **In City Council**

Monday, October 26, 2020

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

Also Present: Councilors Grossman, Bowman, Kelley, Noel, Humphrey, Kalis, Norton, Malakie, Lipof, Markiewicz, Downs, and Greenberg

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

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

#370-20 Appointment of Elizabeth Sweet to the Zoning Board of Appeals

HER HONOR THE MAYOR appointing Elizabeth Sweet, 281 Lexington Street, Newton, as an associate member of the ZONING BOARD OF APPEALS for a term to expire on October 15, 2021. (60 days: 11/20/2020)

Action: **Zoning & Planning Approved 6-0-2 (Councilors Baker and Wright abstained)**

Notes: The Chair welcomed Ms. Sweet to join the Committee and, noting her extensive resume, invited her to express her interest in serving on the Zoning Board of Appeals (ZBA). Ms. Sweet said that she grew up in Newton and after many years of engaging communities nationally and internationally through her work and teachings in urban planning, several years ago moved back to Newton. She said that she sees it as her duty to support the governance of Newton. Ms. Sweet holds a PhD in urban planning and policy and currently is a professor at UMass Boston. She believes she could bring a different perspective to the ZBA.

Several Committee members and other Councilors thanked Ms. Sweet for her willingness to serve on the ZBA and complimented her extensive resume.

Discussion:

Committee Questions:

C: What are your thoughts on how urban planning can promote more sustainable cities with the ongoing zoning redesign efforts?

A: Sustainability is a broad term that applies to building institutions, cultures, and societies' resilience to climate change. The effects of this changing climate are not only seen in heat waves and floods, but how communities grow and how their members work to support each other in the face of these challenges.

Q: Has the City offered training in ZBA matters? Would you find that useful?

A: I have not had specific training yet, but I have received many ZBA materials already and have studied past cases, observing the issues raised around them. I take advantage of any opportunity to learn and more training would be great.

C: Your resume is impressive, and my vote would be an easy "yes" for the Planning Board or Energy Commission, but these may not be the right skills for the ZBA. Be aware that ZBA is not a legislative body, but an adjudicative body that often has to say No to the items before it. There is often not a negotiation like in other situations.

C: Your resume is impressive, but I have received some calls from residents with concerns. You say that you want to do anti-racist work, but the ZBA does not deal with advocacy but rather considers detailed legal questions and is usually made up of lawyers and architects. However, as ZAP continues to discuss zoning redesign anti-racism should be included in these discussions.

A: You are right about the ZBA position and I am aware of its nature as well. I feel that since there are already lawyers on the ZBA, my perspective would be useful to consider how ZBA discussions can impact the community.

C: For some perspective, the current Chairwoman of the Zoning Board of Appeals, Brooke Lipsitt. She is neither a lawyer nor an architect, but clearly understands the ZBA mission and legal standards they are obliged to meet. It is important to have a range of relevant expertise on the ZBA. The City is fortunate that there are many talented people in Newton willing to volunteer their time, understanding that it is important to have volunteers who can follow the legal requirements that must guide their decisions.

C: Ms. Sweet's graduate and PhD work has been in urban planning and policy. By studying planning, Ms. Sweet has learned all the components of building a city, making her eminently qualified for the position.

Other Councilor Questions:

Q: Some appointments, such as the ZBA warrant particular scrutiny because of the authority they have. Can you explain more about why you have the right skills to serve on a quasi-judicial body such as the ZBA?

A: I bring a strong set of critical thinking skills and can ask good questions. My teachings and studies have covered issues similar to those that come before the ZBA.

Q: The anti-racist approach you mentioned is positive, however some people in Newton have taken this approach too far and used it to quash debate and insult their opponents on certain projects. Is this a concern for you?

A: No, I am a careful listener and getting a dialogue going is a strength of mine. Though my academic work has covered topics such as race, gender, and violence, it will not influence my committee work as I am not an ideologue.

Q: How many ZBA meetings have you attended? What would your approach be to a variance petition?

A: I have sat through several ZBA sessions, though not sure of the exact number. As for the variance petition, I would need more information on a specific case before giving an opinion.

Councilor Krintzman moved Approval which carried 6-0-2 (Councilors Baker and Wright abstained)

Referred to Zoning & Planning and Finance Committees

#419-20 Authorization to enter into an intergovernmental service agreement

HER HONOR THE MAYOR requesting authorization to enter into an intergovernmental service agreement (the “Global Participation Agreement”) for the purpose of joining MassDocs.

**Action: Zoning & Planning Approved 8-0
Finance Approved 6-0**

Notes: The Committee was joined on this item by the Finance Committee as well as Barney Heath, director of Planning and Development, and Andrew Lee, Assistant City Solicitor.

Mr. Heath and Atty. Lee each said that the intergovernmental agreement that would allow Newton to join MassDocs would be a significant time saving mechanism. Many other communities have joined MassDocs. Providers of affordable housing normally seek funding from a variety of sources, with multiple application forms and sets of requirements. By joining MassDocs, a single application that synthesizes requirements is provided.

Atty. Lee said that the Law Department has reviewed the draft agreement and forms and spoken to other communities that have joined. These communities told the Law Department that they have found MassDocs to be extremely convenient. This agreement places all the different funding sources under a single closing attorney as the point-person. The lawyer’s fee is borne by the developer/property owners receiving the funds. Atty Lee noted that developers have found that savings from the increased efficiency will be significant. Joining MassDocs will be immediately helpful to some large affordable housing projects currently seeking funding.

Discussion:

Zoning & Planning Committee Comments

Q: Who chooses the closing attorney since this process is not subject to public bidding?

A: Often it is a state agency that decides or the stakeholder with the most money involved. The attorney handling the closing coordination receives feedback and approval from all participating funding sources. The Law Department and Planning Department ensure that all the legal aspects and items in the funding agreement or restriction are correct.

Q: I'm in favor of doing this as it is about time. Could MassDocs be used for a project involving the West Newton Armory?

A: Yes, it could be used for this project.

Q: Who bears the cost of this service?

A: Developers have brought MassDocs to the city attention and they would bear the cost of it.

Finance Committee Comments

C: Does MassDocs save both time and money?

A: There is no financial cost to the City so money stays the same but it will save time.

Q: Why has Newton not joined MassDocs sooner and is there a downside?

A: It has been a long time since there has been a finance proposal with multiple funding sources (federal, state, and local) that would have made use of MassDocs. So far there are no apparent downsides nor causes for concern reported from other communities.

Q: Is it an option to use the documents provided but for Newton to use its own attorney if it wanted to? And what is the fee for these closing attorneys?

A: The city will not have a choice between the documents and closing attorney because the objective of MassDocs is to coordinate these processes. In these situations, Newton funding would usually be on the smaller level. However, the agreement does not require Newton to use MassDocs for any particular.

Q: So MassDocs allows that within one contract there can be several different funding sources with unique requirements that will be maintained? How does MassDocs work for the comingling of funds?

A: Yes. The restrictions for funding sources work together to be met for the particular funding source, they are not simply lumped together. In the past a closing has involved several different contracts and MassDocs eliminates this.

Councilor Danberg moved Approval for ZAP which carried 8-0.

Councilor Noel moved Approval for Finance which carried 6-0.

#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 & Planning Held 8-0

Notes: The final notes on this section will be released as soon as possible during the week of November 2, 2020.

Councilor Krintzman moved Hold which carried 8-0.

The meeting adjourned at 10:49 pm.

Respectfully Submitted,

Deborah J. Crossley, Chair