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Barney S. Heath
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PUBLIC HEARING MEMORANDUM

DATE: April 9, 2021

TO: Councilor Crossley, Chair
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katy Hax Holmes, Chief Preservation Planner

RE: #29-20 Review and possible amendment of Demolition Delay and Landmark Ordinances
COUNCILORS KELLEY, ALBRIGHT, AUCHINCLOSS, CROSSLEY, GREENBERG, KALIS, KRINTZMAN, LEARY, LIPOF, MARKIEWICZ, BOWMAN, HUMPHREY, RYAN AND NORTON requesting a review and, if appropriate, an update of Chapter 22, Sections 22-50 to 22-76 that relate to demolition delays, historic designation, and landmarking.

MEETING DATE: April 12, 2021

CC: City Council
Planning and Development Board
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani
John Lojek, Commissioner of ISD

The Demolition Delay ordinance was adopted in 1985, ten years after the creation of the Newton Historical Commission (NHC) under City Ordinance Chapter 22, Section 22-50. This ordinance was intended to create a waiting period to allow the identification and possible preservation of historically significant buildings and structures over 50 years old in Newton. The Newton Historical Commission administers both partial and full demolition applications. Currently under the ordinance the Chief Preservation Planner and the Commission Chair are

authorized to make a joint determination of whether a property over 50 years meets the initial threshold of historical significance (which then requires a NHC hearing of whether the property meets the further threshold of preferably preserved) or conversely, can be administratively approved to proceed to demolition.

Also, in 1985, the City of Newton became a Certified Local Government, one of the first in the state. This status is an acknowledgement by the state historic preservation office, in this case the Massachusetts Historical Commission, that Newton adopted a comprehensive historic preservation program which incorporated its goals into local planning initiatives. Newton signed a contract with the Massachusetts Historical Commission in July 1985 that affirmed this partnership, and more importantly identified funding sources available to the city for continued survey efforts. Newton is now one of 25 Certified Local Governments in the state and was recently acknowledged by the MHC as continuing to have one of the state's most comprehensive historic preservation programs.

Since its adoption in 1985 there have been several changes to the ordinance and best-practices over time including: lengthening the delay period for National Register-listed properties from one year to 18 months; instituting a minimum four-month period after a property is preferably preserved to allow all parties time to work toward preserving the property where possible; changing the trigger for NHC review of partial demolitions from 25% of an elevation to 50% or more; and restarting a demo delay if property ownership changed during the demo delay period.

The current proposal includes a reorganization of the current ordinance as well as a number of revisions to the content and process, as recommended by the Historic Working Group. Currently all properties more than 50 years old trigger NHC review when at least 50% of any one façade is proposed for demolition. The Historic Working Group has proposed changing this rolling 50-year threshold to a pre-1945 static threshold. The following information is presented in response to questions raised in prior Zoning and Planning Committee meetings.

Number of buildings in Newton pre- and post-1945

There are approximately 17,900 buildings in Newton that were built prior to 1945 and approximately 7,100 buildings built after 1945. Of those buildings constructed after 1945, approximately 4,400 were built between 1945 and 1970 and are subject to NHC jurisdiction under the current Demo Delay Ordinance. If the threshold for review were to be changed to a static date of 1945, it is proposed that a different threshold be applied to buildings constructed after this date, having the same initial staff/Commission chair review for historical significance but only including in their purview buildings that have been found worthy enough to have been previously surveyed and placed on a historic listing. Of the 4,400 buildings constructed between 1945 and 1970, approximately 1,200 have been surveyed for historical significance.

At the previous meeting, members of the Committee asked how long a survey of previously unreviewed properties might take. A survey would involve two steps. The first step is the

windshield survey, or reconnaissance survey. The windshield survey involves utilizing GIS information to identify the age range and location of the areas of interest. Post-war buildings tend to be grouped together. This process could likely be completed over a period of months but would necessitate the assistance of a consultant. This stage will narrow down the list of properties that will then be analyzed as part of the intensive survey. The actual survey work would involve compiling maps, photos, historical descriptions, architectural descriptions and a complete history of the structure. This more intensive survey work would also necessitate the services of a consultant. Funding for these two efforts could be sought from the Massachusetts Historical Commission.

Demolition Delay in other communities

According to the Massachusetts Historical Commission (MHC), there are 154 communities in Massachusetts with demolition delay ordinances. Of those 154 we have obtained information on the cutoff date for review for 148 communities (**Attachment A**). 38 communities (or 26%) have no cutoff date and review all demolition applications and another 38 communities use a rolling 75-year cutoff date. 18 communities (12%) have a rolling 50-year cutoff date, 16 communities (11%) have a rolling 100-year cutoff date, 14 communities (9%) use a list, 12 communities use a static date between 1921 and 1950, 9 communities (6%) use a static date prior to 1921, and 2 communities (1%) rely on MACRIS.

Overall, the most common approach is a rolling cut off date, which is utilized in 73 communities, or 49% of those we analyzed. Next most common is no threshold at all (so all properties proposed for demolition are reviewed, regardless of age) and this is found in 38 communities, or 26%. A static date is utilized in 21 communities, or 12%. An additional 16 communities, or 10% utilize an internal list or the Massachusetts Cultural Resource Information System (MACRIS).

Of the 72 communities which have a rolling cutoff date, 38 are set at 75 years, 18 at 50 years, 16 at 100 years, and one at 80 years. Of the 21 communities with a static cut off date, nine are set at pre-1920, 10 are between 1921 and 1945, and two are between 1946 and 1950.

Demolition Delay applications

In a typical year there are approximately 300 demolition applications for buildings more than 50 years old. About half (including garages) are for full demolition and half for partial demolition. Most partial demolition applications are approved administratively and do not go to an NHC hearing. Approximately 70 of the full demolition applications (50 buildings and 20 garages) are also approved administratively by staff and the NHC chair and do not go to a hearing. Of the remaining 80 full demolition applications, about 60 are deemed preferably preserved by the NHC and subject to a 12- or 18-month demolition delay (18 months for buildings listed on the National Register). The remaining 20 that go to a hearing but are not deemed preferably preserved are free to demolition without a delay. A building deemed preferably preserved and subject to a delay may submit plans for either a partial demolition or a replacement structure

after four months to the NHC and the NHC may approve those plans and waive the remainder of the delay. Of the approximately 60 properties a year that are subject to a delay, about 25 are issued a waiver.

In a typical year, of the approximately 150 full demolition applications, 75 are for post-1945 properties. The majority of the post-1945 demolition applications are administratively approved and approximately 15 of the 75 are deemed preferably preserved and subject to demolition delay. Of those 15, approximately 5 are issued waivers – following a presentation from the property owner to the NHC of the proposed new structure for the property.

Demolition Delay outcomes

At the March 8th meeting the Committee requested information on the outcomes of demolition applications. This information is not tracked, however staff reviewed NHC files and compared them to demolition permit information from Inspectional Services. Staff reviewed applications from 2017 with the assumption that if a property owner submitted a demolition application to NHC in 2017 and were going to demolish the building they likely would have done so by now (the most recent demolition permits from the 2017 applications were issued in 2020).

In 2017 there were 134 full demolition applications and half (67) were for pre-1945 buildings and half were for post-1945. Of the 134 applications, 58 were administratively approved (14 pre-1945 buildings and 44 post-1945 buildings). The remaining 76 applications went to a NHC hearing (53 pre-1945 and 23 post-1945). The NHC found 47 of these properties to be preferably preserved (37 pre-1945 and 10 post-1945). Of the 47 preferably preserved properties subject to a demolition delay, 24 were then granted waivers (20 pre-1945 and 4 post-1945). Of the remaining 23 properties with a demolition delay which were not granted a waiver, 17 waited out the delay and demolished the structure (12 pre-1945 and 5 post-1945) and 6 have not demolished (5 pre-1945 and 1 post-1945).

Of the full demolition applications, 55% of pre-1945 properties and 15% of post-1945 properties were found to be preferably preserved and subject to demolition delay. Of those preferably preserved, 32% of pre-1945 properties and 50% of post-1945 properties waited out the delay and demolished the structure.

ATTACHMENT A: Demolition Delay in Massachusetts communities

Demolition Delay in Massachusetts

Town or City	Cut-off date	Town or City	Cut-off date
Amesbury	50	Plymouth	75
Beverly	50	Plympton	75
Cambridge	50	Randolph	75
Easthampton	50	Somerset	75
Foxborough	50	Somerville	75
Framingham	50	Stoughton	75
Holyoke	50	Swampscott	75
Marshfield	50	Upton	75
Newton	50	Waltham	75
North Adams	50	Ware	75
Provincetown	50	Wareham	75
Salem	50	Wellfleet	75
Stockbridge	50	Woburn	75
Sudbury	50	Yarmouth	75
Taunton	50	North Andover	80
Walpole	50	Burlington	100
Watertown	50	Dighton	100
Wrentham	50	Essex	100
Barnstable	75	Hatfield	100
Bolton	75	Huntington	100
Bourne	75	Ipswich	100
Chatham	75	Leicester	100
Chelmsford	75	Northborough	100
Danvers	75	Oak Bluffs	100
Dartmouth	75	Scituate	100
Dennis	75	Sharon	100
Duxbury	75	Sheffield	100
East Bridgewater	75	Springfield	100
Eastham	75	Sturbridge	100
Easton	75	Weymouth	100
Georgetown	75	Newbury	75; 100
Groton	75	Arlington	list
Holliston	75	Belmont	list
Hopkinton	75	Boxborough	list
Lawrence	75	Lynnfield	list
Lenox (new)	75	Maynard	list
Lunenburg	75	Millis	list
Mendon	75	Peabody	list
New Bedford	75	Reading	list
Newburyport	75	Rowley	list
Norfolk	75	Tewksbury	list
Pittsfield	75	Topsfield	list

Demolition Delay in Massachusetts

Town or City	Cut-off date	Town or City	Cut-off date
Westport	list	Bedford	no age
Williamstown	list	Dover	pre-1899
Worcester	list	Halifax	pre-1900
Andover	MACRIS	Harwich	pre-1900
Middleton	MACRIS	Pembroke	pre-1900
Acton	no age	Medford	pre-1900
Agawam	no age	Longmeadow	pre-1901
Amherst	no age	Westwood	pre-1910
Billerica	no age	Milton	pre-1919
Boston	no age	Orleans	pre-1920
Braintree	no age	Westford	pre-1921
Brookline	no age	Southborough	pre-1925
Carver	no age	Northampton	pre-1939
Chilmark	no age	Ashland	pre-1940
Fall River	no age	Hamilton	pre-1940
Falmouth	no age	Winchester	pre-1940
Franklin	no age	Dunstable	pre-1941
Greenfield	no age	Concord	pre-1941 + list
Hanover	no age	Canton	pre-1945
Hingham	no age	Weston	pre-1945
Kingston	no age	Wellesley (new)	pre-1949
Lakeville	no age	Westborough	pre-1950
Leominster	no age		
Leverett	no age		
Lexington	no age		
Lincoln	no age		
Littleton	no age		
Lynn	no age		
Malden	no age		
Medfield	no age		
Medway	no age		
Methuen	no age		
Middleborough	no age		
Nantucket	no age		
Natick	no age		
Needham	no age		
Norwell	no age		
Saugus	no age		
Truro	no age		
Tyngsborough	no age		
Wakefield	no age		
Westfield	no age		