



Zoning & Planning Committee Report

City of Newton In City Council

Tuesday, August 9, 2022

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

Also Present: Councilor Malakie

Planning and Development Board Members: Peter Doeringer

City Staff: Zachary LeMel, Chief of Long Rand Planning; Eamon Bencivengo, Housing Development Planner; Jen Caira, Chief Planner; Jennifer Wilson, Assistant City Solicitor; Rena Getz, Waban Area Council Member; Jaclyn Norton, Committee Clerk

#125-22 **Requesting updates on the Municipal Affordable Housing Trust**
COUNCILOR CROSSLEY, on behalf of the Zoning & Planning committee, requesting periodic progress reports on establishing the Municipal Affordable Housing Trust.

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

Note: This item was discussed concurrently with #401-22.

#401-22 **Request for review and amendment to Section 5.11.5.E**
HER HONOR THE MAYOR requesting possible amendment to Section 5.11.5.E to specify that the Affordable Housing Trust will be the entity to receive and distribute one half of new Inclusionary Zoning funds, rather than having these funds go to a separate City account.

Action: **Zoning & Planning Held 8-0; Public Hearing on 09/12/22**

Note: The Chair read items #125-22 and #401-22 into the record and introduced Ann Houston and Peter Sargent, Chair and Vice chair, respectively, of the Municipal Affordable Housing Trust (the Trust). Ms. Houston expressed thanks towards the Committee for their commitment to create affordable housing in Newton and believes the members of the Trust bring a depth of knowledge to the work. She informed the Committee that the Trust thus far has held two meetings with the first focusing on organizational matters and the second focusing

For more information regarding this meeting, a video recording can be found at the following link: [Zoning & Planning Committee August 9, 2022 \(newtv.org\)](https://www.newtv.org)

on more substantive matters, such as reviewing by-laws and guidelines developed in other communities and how to craft them for the Newton Trust. The Trust is hoping to be well positioned to act quickly when new projects emerge and will allow for opportunities to amend guidelines as needed. The Trust has also submitted its first annual request of \$1,948,000.00 from the CPA Community Housing Funds. This was heard on Tuesday August 9th at the CPC meeting ([08-09-22 CPC Meeting](#) (passcode:7zMf\$CRx))Mr. Sargent expressed thanks to the Committee and the City Council for creating the Trust.

A Councilor sought clarification on how an organization could apply for funds from the Trust. Ms. Houston responded with guidance to contact the Planning Department and Mass Housing Partnership's Community Assistance Division. She also offered to provide contact information to the organization to get in touch with these resources. Eamon Bencivengo, Housing Development Planner, also reaffirmed that the Planning Department is willing to speak with developers looking to create affordable housing and has many tools to help them achieve these goals. Multiple Councilors expressed gratitude for the Trust getting to work so quickly and that they look forward to future updates. Clarification on the usage of funds for support services was also sought by a Councilor. Ms. Houston said the Trust has started work on this topic which is the subject of their next meeting. Another Councilor also noted the importance of social services and proposed that the Trust might facilitate collaboration among social service organizations. Mr. Sargent said that developing a plan to integrate these services will take a bit longer for the Trust as to better understand them and provide an effective rollout.

Mr. Bencivengo then presented proposed amendments to Section 5.11.5.E. Cash Payment Recipient, which would provide that 50% of the fund go directly to the Trust, in order to allow the Trust to operate as efficiently as possible in pursue of its mission. The current ordinance allows for cash payments by developers in lieu of providing affordable units, which funds are placed into a City Inclusionary Fund that is shared equally between the Planning Department and the Newton Housing Authority. This amendment would instead have the funds go to the City's Municipal Housing Trust Fund, which will still be shared equally with the Newton Housing Authority.

A Councilor asked how the Inclusionary Zoning Funds can be appropriated if the amendment is not approved. Mr. Bencivengo responded that the Mayor would need to docket a request to be approved by the City Council for each specific project. This Councilor also raised the point that this amendment would remove the role of the Council in dispersing these Inclusionary Zoning funds. Mr. Bencivengo again noted that the reasoning behind this is to allow for an efficient Trust that can utilize member experience to take advantage of opportunities in a timely manner. Another Councilor said this amendment would have the same effect as the recent previous amendment made to the IZO, where each year Council approves moving half of the IZ fund directly to the Newton Housing Authority. The Committee voted 8-0 in favor of both a motion to set a public hearing for September 12th, 2022 from Councilor Leary, and a motion to hold the item from Councilor Albright.

#192-22 Request for review and amendments to Section 6.7.1

COUNCILORS CROSSLEY, DANBERG, LIPOF, KELLEY, ALBRIGHT, NORTON, BOWMAN, GREENBERG, HUMPHREY, LEARY, RYAN, AND KRINTZMAN requesting a review of and possible amendments to, Section 6.7.1 Accessory Apartments, to remove barriers to creating accessory apartments, such as to consider conditions under which detached ADUs may be allowed by right, and under which ADUs may be permitted as part of new construction.

Zoning & Planning Held 8-0 on 07/18/22

Action: Zoning & Planning Held 8-0; Public Hearing on 09/12/22

Note: The Chair read the item into the record and noted that this is a continuation of the discussion had at the July 18th ZAP meeting with an updated proposal from the Planning Department ([07-18-22 Zoning & Planning Report \(newtonma.gov\)](#)). Zachary LeMel, Chief of Long Range Planning presented the Planning Department's revised proposal. Mr. LeMel began by addressing questions raised by Councilors during the July 18th Meeting. The first was regarding the number of recently permitted ADUs. Mr. LeMel stated that since 2017, 72 ADUs have been approved and most have been internal. In response to multiple Councilors asking whether there have been noise complaints from ADUs, LeMel learned that the Inspectional Services Department found no instances of noise complaints for existing detached ADUs that received setback relief. Regarding legalizing pre-existing illegal units through these ordinance amendments, Mr. LeMel found that since 2008, only 7 permits have notes relating to legalizing a previously illegal unit. Finally, regarding the impact on small lots, Mr. LeMel presented a chart showing that the by-right FAR, the 250sf minimum allowed size, and required setbacks are the primary limiting factors. Mr. LeMel showed several examples of small lots to illustrate what, if any, detached ADU would be allowed.

The second part of this presentation focused on the proposed amendments to Section 6.7.1. Planning Department now proposing setbacks for detached ADUs be either ½ of the setbacks required for the principal dwelling or 7.5ft., whichever is greater. If the setback is less than that required for the principal dwelling, additional screening requirements are applied. These requirements could be met with dense planting or fencing. According to Mr. LeMel the 7.5 ft. minimum was decided as that is the minimum side setback required for principal dwellings in residential zoning districts. Mr. LeMel's concluded with the recommendation that the Committee set a public hearing date in September.

Councilors sought clarification on whether the proposed amendment is limited to a by-right pathway and why the setbacks are different in the SR1 district than SR2 and SR3. Mr. LeMel responded stating that the proposed amendments are limited to a by-right option but that the FAR can be exceeded by special permit. He also noted that the variation in setbacks is to have an ordinance that is responsive to the unique characteristics of the various zoning districts. One Councilor expressed his opposition to the setbacks being any less than that of the principal dwelling. The Chair in response sought clarification from the Law Department regarding the wording of the public hearing notice such that it would allow the committee to amend the draft

ordinance. Mr. LeMel introduced Jennifer Wilson, Assistant City Solicitor who confirmed that based on her understanding, the committee will have the ability to amend the draft ordinance after the public hearing. Multiple Councilors expressed a desire to get more information on the specific screening requirements that would satisfy the ordinance. This information will be provided before the public hearing according to Mr. LeMel who also reaffirmed the City's commitment to preventing absentee ownership when those concerns were raised.

In speaking with local developers, a Councilor noted that they expressed no financial incentive to create an ADU and would rather max out the FAR for a single family home. Committee members expressed support for the updated proposal from the Planning Department and voted 7-0-1 (Councilor Baker abstaining) on a motion to hold the item and set a public hearing for September 12th, 2022 from Councilor Krintzman.

#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers

ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

Zoning & Planning Held 8-0 on 07/18/22

Action: Zoning & Planning Held 7-0 (Councilor Baker Not Voting)

Note: The Chair read item #38-22 into the record and introduced Mr. LeMel to provide an update on upcoming community engagement efforts. He spoke on the parallel paths of developing illustrations and maps to solicit community feedback on how the zoning framework, previously presented to the Committee, could work to shape the built environment in our village centers over time, and the preparation of more detailed materials, such as the design standards, for the Committee to review this fall. The exhibit at the library will open on September 1st. This exhibit will feature not only information on elements of the zoning framework that has been discussed in Committee, but also provide additional illustrations and photographs of what could be built under the proposed framework.

The goal of these materials is to inform and educate the public, as well as record community reactions.

These materials will also be available online. The draft zoning would follow the community engagement period for another round of committee discussion/ deliberation. Mr. LeMel mentioned speaking at the next meeting on ways Councilors can help to encourage their constituents to participate. Mr. LeMel reaffirmed that both paths are moving forward.

During discussion multiple Councilors noted concern with the length of the community engagement period. Both Mr. LeMel and Jen Caira, Chief Planner, responded the current duration is a balance between getting feedback from the Community and getting back to work in Committee on village center zoning. It was also noted that the Community can respond to open ended questions where the responses will be shared with the Committee and help inform

the writing of the draft ordinance. Two Councilors also brought up concerns with the presentation of the Committee discussions surrounding the framework. These concerns focused on not misleading the public into thinking that the Committee achieved consensus on a zoning proposal (An article in an online news article used this term). The Planning Department reassured these Councilors that they are looking at including information from Committee discussions in the exhibit. Straw votes recorded in June on all elements of the Framework show general agreement for moving ahead with this phase based on the zoning framework. But the particulars, including dimensional requirements are what we expect to get feedback on in this interim stage. A Councilor noted that several groups plan to attend the exhibit as a group and proposed encouraging organized groups to visit the exhibit in person to promote dialogue and better grasp the material.

The Planning Department also noted that they are looking to have larger community events to present the material. A preference will be given to a virtual event due to the overwhelming response from the community engagement network. More details of these events are not currently available. The Committee voted 7-0 (Councilor Baker not voting) on a motion to hold from Councilor Krintzman.

#396-22 Reappointment of Rick Wetmore to the Chestnut Hill Historic District Commission

HER HONOR THE MAYOR reappointing Rick Wetmore, 131 Suffolk Road, Chestnut Hill as a full member of the Chestnut Hill Historic District Commission for a term of office to expire on August 1, 2025. (60 Days: 10/07/2022)

Action: Zoning & Planning Approved 8-0

#397-22 Reappointment of Susanna Lannik to the Chestnut Hill Historic District Commission

HER HONOR THE MAYOR reappointing Susanna Lannik, 25 Essex Road, Chestnut Hill as a full member of the Chestnut Hill Historic District Commission for a term of office to expire on July 15, 2025. (60 Days: 10/07/2022)

Action: Zoning & Planning Approved 8-0

Note: The Chair read items #396-22 and #397-22 into the record. Committee members expressed no concerns relative to the reappointments and voted 8-0 in favor of a motion to approve from Councilor Baker.

The meeting adjourned at 8:54pm

Respectfully Submitted,

Deborah J. Crossley, Chair



Accessory Apartment Amendments

Docket #192-22

Zoning and Planning Committee
August 9, 2022



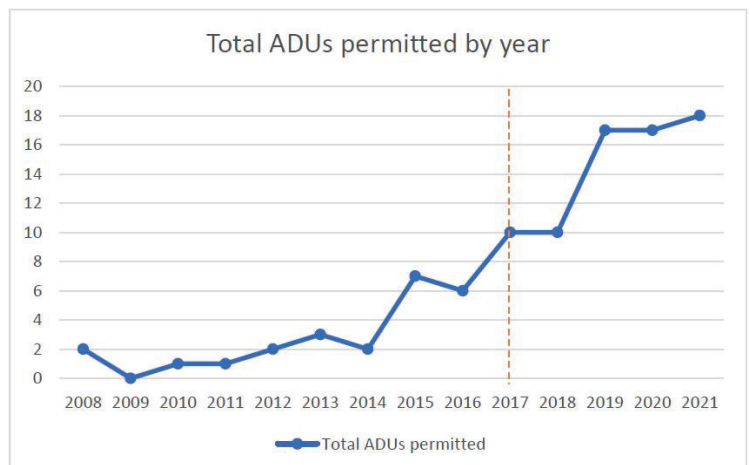
Overview

- Follow-up from July meeting
- Updated Proposals
- Next Steps

Follow-Up from July Meeting

Recently Permitted ADUs

- 2008 - 2017: 25 ADUs
- 2017 - Present: 72 ADUs





Noise Complaints for ADUs (none)

- ISD could find no noise complaints for existing ADUs
 - Internal or external
 - Meets setbacks or provided relief for setbacks

Source: Newton Inspectional Services

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Legalizing Pre-Existing Illegal Units

- Permitting system does not track this
- Nearly 100 building permits for ADUs were reviewed (2008-present)

7 permits have notes for legalizing a previously illegal unit

Source: Newton Inspectional Services

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Impact of Detached ADUs on Small Lots

- Limiting factors include:
 - Existing principal building uses all FAR
 - The remaining FAR was less the 250 sf, which is the minimum ADU size
 - The remaining FAR was more than 50% of the principal building size or greater than 900 sf. Detached-ADUs cannot be:
 - More than 50% of principal building, or
 - More than 900 sf

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Impact of Detached ADUs on Small Lots



18 Wiltshire Road (Ward 1)

- Zoning: MR1
- Allowed FAR/SF: 0.58/2,610 sf
- Lot Size: 4,500 sf
- Principal Building FAR/SF: 0.43/1,936 sf
- Remaining FAR/SD: 0.15/675sf

675 Detached-ADU Allowed

Impact of Detached ADUs on Small Lots



Source: Newton Assessor Database

12-14 Hale St (Ward 5)

- Zoning: MR1
- Allowed FAR/SF: 0.58/2,288 sf
- Lot Size: 3,945 sf
- Principal Building FAR/SF: 0.581/2,298 sf
- Remaining FAR/SD: 0.0/0 sf

Detached-ADU Not Allowed

Updated Proposals:

Reduced Setback - Original Proposal

Current	Previously Proposed
<ul style="list-style-type: none"> - A detached ADU must meet the setback requirements of the principal dwelling unit, except by special permit 	<ul style="list-style-type: none"> - A detached ADU must meet the setback requirements for Accessory Buildings (5 ft rear and side yard setbacks) - Additional screening requirements if detached ADU setbacks are less than the principal dwelling unit requirements <ul style="list-style-type: none"> - Dense planting - Fencing

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Reduced Setback - Updated Proposal

Current	Updated Proposed
<ul style="list-style-type: none"> - A detached ADU must meet the setback requirements of the principal dwelling unit, except by special permit 	<ul style="list-style-type: none"> - A detached ADU side- and rear-setbacks can be half of what is required of the principal dwelling or 7.5 feet, whichever is greater. - Additional screening requirements if detached ADU setbacks are less than the principal dwelling unit requirements <ul style="list-style-type: none"> - Dense planting - Fencing

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Reduced Setback - Updated Proposal

Old Lot - Setback Requirements				
	SR1		SR2, SR3, MR1, MR2, MR3	
	Principal Building	ADU	Principal Building	ADU
Side	12.5'	7.5'	7.5'	7.5'
Rear	25'	12.5'	15'	7.5'

Next Steps:



Set a Public Hearing

- Staff recommend the first ZAP meeting in September

Thank you!