



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, July 15, 2019**

Committee Councilors Present: Albright (Chair), Danberg (Vice Chair), Kalis, Baker, Krintzman, Brousal-Glaser, Downs, Leary.

Also Present: Councilors Lipof, Markiewicz, Kelley, Norton, Gentile, Crossley, Laredo

Planning & Development Board: Peter Doeringer (Chair), Sonia Parisca, Kevin McCormick, Christopher Steele, Jennifer Molinsky, Christopher Steele, Kelly Brown, Sudha Maheshwari, Rachel Powers.

City Staff Present: Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.), Jonah Temple (Assistant City Solicitor), Rachel Nadkarni (Long Range Planner/Zoning Specialist), Katy Holmes (Chief Preservation Planner), John Lojek (Commissioner of ISD), David A. Olson (City Clerk/Clerk of the Council), Karyn Dean/Donna Whitham (Committee Clerks).

**#241-19      Appointment of Leigh Gilligan to the Conservation Commission**  
HER HONOR THE MAYOR appointing LEIGH GILLIGAN, 16 Bradford Road, Newton Highlands, to the CONSERVATION COMMISSION for a term to expire July 31, 2022. (60 days: 9/6/19)

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

**Note:**      The Committee unanimously approved the appointment of Leigh Gilligan as a member of the Conservation Commission. The Committee was impressed with Ms. Gilligan's credentials and appreciated her willingness to serve.

**#242-19      Reappointment of Paul Snyder to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR reappointing PAUL SNYDER, 9 Ardmore Road, West Newton, as a member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire July 1, 2022. (60 days: 9/6/19).

**Action:**      **Zoning & Planning Approved 8-0 (combined vote with reappointment below)**

**Note:**      The Committee unanimously approved the reappointment of Paul Snyder as a member of the Newton Upper Falls Historic District Commission.

**#243-19      Reappointment of Susana Lannik to the Chestnut Hill Historic District Comm**  
HER HONOR THE MAYOR reappointing SUSANA LANNIK, 25 Essex Road, Chestnut Hill, as a member of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION for a term to expire July 15, 2022. (60 days: 9/6/19)

**Action:            Zoning & Planning Approved 8-0 (combined vote with reappointment above)**

**Note:**            The Committee unanimously approved the reappointment of Susana Lannik as a member of the Chestnut Hill Historic District Commission.

**#165-19      Adoption of Washington Street Vision Plan as part of the Comprehensive Plan**  
DIRECTOR OF PLANNING requesting approval and adoption of the Washington Street Vision Plan as an amendment to the 2007 Newton Comprehensive Plan.

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

**Note:**            Council members welcomed and complimented the new slimmed down version of the proposed Washington Street Vision Plan. It was described as comprehensive, more readable, organized, and much more comfortable to follow. Barney Heath, (Director of Planning) provided an overview of the new draft. He spoke of building height ranges and the need for future special permits to determine those. He mentioned the fiscal impact analysis will be more project based, rather than holistic. The goal was to showcase Newton's values and highlight walkability. Some early action topics included as described in the plan.

Ms. Nadkarni presented a PowerPoint (see link below) which reflected the updates to the plan. She mentioned this new draft has been simplified and encouraged Councilors to read through each section carefully. This was redrafted to be a less specific version with a more generalized feel to accommodate future progressive additions and changes. She and Mr. Freas confirmed the simplified Washington St. map is for illustrative conceptual understanding of heights and that a zoning map will be developed later with detailed heights.

The described dimensional aspects of the multiple building structures, building height ranges and frontage appearance will vary to express visual distinction and interest. Councilors asked if setbacks after 6 stories instead of 4 would provide adequate light/sun as opposed to necessary shading. The conversation lead to the potential number of allowable floors per building: 3-5; 4-6; and 6-plus. Councilors questioned the proposed maximums of the undefined 6-plus to reflect a more conclusive maximum stories using the language of 6-10. One Councilor would prefer the elimination of tall buildings entirely, replacing them with medium height and replacing medium height structures with the low range. An additional suggestion was to assure readers that not-for-profit developers were included in our planning. A councilor inquired the definition of a comfortable street edge, the ratio of building-height-to-street width 1:3 or 1:1; asking for clarification of the actual measurements used in the model to conclude those ratios. The Councilor expressed concerns for Washington Street being transformed into a boulevard with minimal cars and creating a single lane for vehicles, poses issues and the idea that reducing parking will not necessarily reduce the number of potential drivers.

The new vision plan was enjoyed by Councilors, though they requested more specific projected information as to the density of the area, traffic design, roadway patterns, parking provisions, bike lanes, public walkways, package delivery services and all forms of possible transportation. Comments referenced environmental considerations and possible decking over the Mass Pike; what level of development would support the costs of the decking and the extreme financial costs associated.

Special emphasis was placed on safety for pedestrians and the increasing bike population. The Chair mentioned the need for early action plans relative to proposed driverless cars. Ms. Nadkarni stated this issue will fit nicely into the parking management plan, coupled with other ancillary transportation needs. Some Councilors felt the use of cars for personal shopping would be necessary for residents rather than the use of public transportation and that taking transit for commuter purposes is more likely a reasonable scenario.

Questions by a Councilor referenced the possible incentives available for the development of affordable housing, including the Armory site. Would there be similar benefits available to incentivize eco-efficient buildings and would local businesses be candidates for such incentives. Council members stated that having an array of village amenities, would be appreciated and not bank or chain stores. There were positive Councilor comments regarding the prospect of a village based business association and local merchant support.

A Councilor felt the definition of the “18-hour day village center” for business is too long especially when residential areas are adjacent. It was suggested this concept could be expressed in another way using a more prudent choice of words with regards to activities available during that duration. Language should be used wisely and accurately as this project will be referred to many times for precedent. One recommendation by a Council member was to look at other new projects in progress as a comparison to determine what is working and what could be improved upon for Washington Street and future projects. Additional question raised by a Councilor was extending the Washington St. vision plan to Newton Corner rather than stopping at Crafts St. Planning staff mentioned time and resources limited the vision to Crafts Street, but they will examine lengthening the stretch to Thornton Street. Later planning will specifically focus on Newton Corner.

Councilors expressed the need to preserve the valued history and culture of Newton throughout this project, with attention given to environmental preservation and protection of iconic buildings. One Councilor suggested developing a checklist of historic/iconic structures in order to be proactive in addressing the protection and preservation. These are areas of concern to the residents. The Committee agreed to continue discussion at the next Zoning and Planning Committee meeting on Monday, July 29, 2019.

Councilor Brousal-Glaser moved to hold; Committee unanimously voted in favor.

**#140-19(3)      Zoning amendments for Riverside Station**  
RIVERSIDE STATION/355 GROVE STREET AND 399 GROVE STREET requesting amendments to Chapter 30, Newton Zoning Ordinance, in Sections 4.2.3 and 4.2.4 relative to the Mixed Use 3 District.

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

**#187-19            Zoning amendment from Newton LFIA for Riverside Station**  
LOWER FALLS IMPROVEMENT ASSOCIATION RIVERSIDE COMMITTEE requesting to amend Chapter 30, City of Newton Zoning Ordinance, Sections 4.2 and 7.3.5 pertaining to the Mixed Use3/Transit-Oriented zoning district.

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

**Note:**            Requests drafted by Chair and Planning Department to the Land Use Committee (LU) suggesting that elements from the Lower Falls Improvement Association (LFIA), would be more appropriately positioned under the direction of LU. The reasoning behind recommending that the Land Use Committee address these issues is that they do not typically fall under a zoning ordinance. Some of the studies and analyses include; traffic, wind studies, pedestrian and parking design. A Councilor suggested to revisit and review further the comprehensive vision plan that was already created by Civic Moxie, this would serve as a suitable guide. Suggestion was made to retain the topic for discussion pertaining to the square footage changes as a direct result from access to Rte. 128. It will help to have a better understanding of what the mix-use will look like. The Chair stated the existing MU3 zone with defines square footage by usage, is one of the most unusual zones in the country and further conversation will be necessary.

There will be a meeting of the Chairs of Zoning and Planning and Land Use with the President to further research these issues. One Councilor recommended to add a Ward 4 Councilor to be present in that discussion. The chair stressed the ultimate zoning packet from the full Council is going to be critical and there will be many more discussions.

**#244-19            Amend ordinances by creating a temporary suspension on landmark designation**  
COUNCILORS ALBRIGHT, AUCHINCLOSS, CROSSLEY, DOWNS, KELLEY, LIPOF, GREENBERG, KRINTZMAN, COTE, NOEL, LEARY, AND DANBERG proposing an amendment to Chapter 22 of the Revised Ordinance of the City of Newton, 2017 to create a temporary suspension on the landmark designation of any land, buildings, and structures in the City of Newton in order to allow the City adequate time to review the landmark ordinance and consider what revisions are appropriate. The temporary suspension will prevent and suspend the nominating, processing, and approval of any future landmarks or any property currently under consideration for landmark designation.

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

**Note:** The purpose of the suspension was to allow work on the landmarking and demolition delay parts of Chapter 22 to be reviewed before any further landmarks are created. The original proposal was a total suspension but the Planning Department recommended allow important landmarks to be made. In response a second proposal was to allow the Mayor, Director of Planning and Development and the Commissioner of ISD to continue to recommend landmarks. The temporary suspension would end no later than December 31, 2020. A Councilor asked if the main objective was to withdraw the nomination privilege from the City Councilors and the Historic Commission. Councilor responded, the intention was to temporarily suspend making recommendations during the review process, but to allow some elected and appointed officials remain able to designate through the duration of the suspension.

Asked by a Councilor was why the need to relinquish the ability from the Councilors and Historical Commission for Landmark designation, when the proven recommended sites have been so low dating back to 2008. A Councilor asked why the lengthy 18-month suspension when there had been no abuse of the usual procedures involving Committee Councilors and Historical Commission. Should the ordinance change, the Committee could expeditiously make appropriate alterations within an acceptable timeframe. A Councilor stated that while the chart on landmark designations from 2008 to the present shows few designations, there have been 4 houses in the Councilor's ward which were recently recommended for Landmark consideration. Katy Holmes stated that there were only 2 homes.

Councilor questioned the rationale for the 18-month moratorium and why was it proposed initially, with no evidence of using this tool inappropriately. A Councilor asked if there would be a moderation of the 18-month timeframe. Many Councilors felt that limiting power of Council and allowing only executive to nominate was problematic and a serious flaw with this proposal. A Councilor suggested to NAN this moratorium, agreed with by two others. It was then suggested that the Chair and Vice Chair of Zoning and Planning Committee continue to meet with Planning and Development Department to further this discussion. A motion was made to hold the item until after these discussions.

**#128-19      Zoning Amendment for short-term rentals**

DIRECTOR OF PLANNING proposing to amend Chapter 30, City of Newton Zoning Ordinances, in order to create a short-term rental ordinance that defines the short-term rental and bed & breakfast uses, identifies what zoning districts they would be allowed in and under what criteria, conditions, limitations and permitting process.

**Zoning & Planning Approved as amended 4-0-2 on 6/24/19**

**Action:** **Recommitted to Zoning & Planning Committee by City Council 6/27/19**

**Zoning & Planning Approved as amended 6-0-2 (Councilors Baker and Kalis abstaining)**

**Notes:** **Discussed with item 136-19 below**

**#136-19      Referred to Zoning & Planning, Public Safety, and Finance Committees**

**Short-term rental ordinance with fees**

DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.

**Public Safety Approved 4-0-1 (Cote abstaining; Grossman not voting) on 06/05/19**

**Finance Approved 4-0 (Grossman recused) on 06/10/19**

**Zoning & Planning Approved as amended 4-0-2 on 6/24/19**

**Recommitted to Zoning & Planning Committee by City Council 6/27/19**

**Action:      Zoning & Planning Approved as amended 6-0-2 (Councilors Baker and Kalis abstaining)**

**Note:**      Discussion opened to further the zoning ordinance for Short Term Rental (STR) and Bed & Breakfast (BnB) The need to regulate and balance the STR properties, is to protect neighborhoods from disruption while extending entrepreneurial economic activity to a homeowner. Mr. Freas described what constitutes the difference of an actual Bed/Breakfast serving food as opposed to a STR. The owner must reside in the property 9 months out of the year, with the potential allowable rental period of no more than 30 days.

STR's could potentially impact 32,000 properties throughout the City. Nationally, there is an increased level of concern on whether STR's is taking properties out of long-term housing for potential residents. STR's are not currently lawful under the City of Newton's zoning, therefore, this proposed ordinance is timely. Councilor stated residents should be able to legally utilize their property as an accessory and take advantage of an income-producing situation, but to have restrictions that would assure neighborhood security.

A number of straw votes were taken based on proposed amendments from Councilor Baker and the planning department. These are reflected below.

Councilor Baker proposed that homeowners should remain on the premises to safeguard, while renters are present. Owner should be onsite during the rental period, as opposed to fully renting the property out. In remaining onsite, he felt optimal safety is insured for the neighborhood. A councilor suggested that a caretaker or manager could serve in lieu of the legal owner, which creates the definition of a commercial enterprise, as stated by a Councilor. Motion Failed 4-4-0.

Monitoring of the property was of concern and to potentially have the owner present during the rental period. A Councilor asked if owner could be reachable via telephone, or a caretaker/manager in lieu of an owner.

**Pertaining to the amendments on the Planning and Development Memorandum.**

**6.7.5/Short-Term Rental:**

**Unchanged**

***Item B-5: The owner of the dwelling must occupy the unit for a minimum of 9 out of 12 months during each calendar year***

**Unchanged**

Retained the same language.

***Item B-6: The short-term rental use is limited to no more than 90 days per year.***

**Failed 3-5-0.**

***Item B-7: The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 3 and the maximum number of guests is 9.***

**Passed 5-3-0.**

STR of 4-5 bedrooms could be allowed by Special Permit process. The rental of 6 bedrooms will not be considered, as that meets the criteria of a hotel and is prohibited from rental in a residential zone. Data services are available to provide enforcement. Currently, Bed and Breakfasts with up to three operating rooms do not have to register with the state and pay only current property tax.

***Item B-8: A short-term rental can only be rented under 1 (one) contract at a time.***

**Failed 1-7-0**

Enforcement of maximum people will be difficult. Discussion focused on whether it would be noisier if all renters knew each other.

***Item B-9: A short-term rental in a detached structure on the same lot may be allowed by special permit.***

**Failed 3-5-0**

STR's not allowed in detached units, such as carriage house. Councilor suggested by using special permit guidelines, detached units could be an appropriate STR as accessory. Other Councilors were pointed out that a city goal is to increase living units through long-term accessory apartments, not for STR. This option had been voted down at a prior meeting.

Mr. Freas and Jonah Temple (Assistant City Solicitor), stated they preferred several changes all of which were agreed to by the Committee

- The term calendar year as opposed to the 12-month in the section on violations in the prior time period
- Effective date for changes going into effect will be January 1, 2020.
- Owners could apply to register as early as October 1, 2019.

Meeting adjourned

**Respectfully Submitted,**

**Susan S. Albright, Chair**