

**City of Newburyport  
Joint Public Hearing  
Planning Board and Planning & Development Subcommittee  
February 19, 2014  
MINUTES**

The meeting was called to order at 7:14 PM.

**1. Roll Call**

In attendance for the Planning Board -- Dan Bowie, Paul Dahn, Sue Grolnic, Noah Luskin, Bonnie Sontag, Don Walters, Cindy Zabriskie

In attendance for the Planning & Development Committee of the Council -- Ed Cameron, Jared Eigerman, Barry Connell + Committee of the Whole – Allison Heartquist, Ari Herzog, Bob Cronin, Bruce Vogel, Charlie Tontar, Larry Giunta, Meghan Kinsey

Absent: Planning Board members Henry Coe, Jim McCarthy; City Councilor Tom O'Brien

Also present were Mayor Donna Holaday; Andrew Port, Director of Planning and Development

**2. Joint Public Hearing with Planning and Development Committee of the Council**

Committee Chairman Cameron introduced the Planning & Development Subcommittee members and city councilors in attendance. Chairman Bowie introduced the Planning Board members and described the process. Bonnie Sontag read the legal notice for the Proposed Zoning Ordinances "Interim Downtown Overlay District" (IDOD), "Interim Demolition Control Overlay District" (IDCOD), and the amendment to establish new off-street parking regulations for all uses.

Committee Chairman Cameron said the focus would be on two amendments for new overlay districts, IDOD and IDCOD. Both were referred to the Planning & Development Committee of the Council and the Committee of the Whole Council. The third amendment, concerning parking, was referred only to the Planning & Development Subcommittee. With a City Council quorum present, discussion would be limited to the first two ordinances. Fifty people signed up to speak and written testimony had been received.

Councilor Eigerman gave an overview of the two district amendments. He intended them to be meaningful for historic preservation. In 1971, the city committed to historic preservation and has yet to follow-up on that commitment. The master plan of 2001, scheduled for updating, and an historic preservation plan dating from 1991 are in existence. Decades of studies all called for some form of legal protections. Now was the time to find common ground. He heard there was consensus for a design review process for downtown and better demolition regulation. The Planning Board needed to weigh in on the amendments. Emails, letters, and calls indicated the draft amendments were unclear. His goals were to: 1) differentiate between downtown and the rest of the city, 2) protect what is nationally significant, 3) outside of downtown, only review demolition requests of National Historic Register buildings in order to capture attempts to game the system, 4) acknowledge that special permits required balancing many land use goals, and 5) inside the downtown, review any material changes to a building on the National Historic Register. His goals for the parking ordinance were to make it easier to get parking relief downtown and address situations such as the embarrassing and frustrating case of a 442-seat

**Planning Board Joint Public Hearing**  
**February 19, 2014**

restaurant where the city provided a mix for their parking. These items were not too complex to face. Public comments would be limited to two minutes.

Public comment open.

Tom Kolterjahn, 64 Federal Street, co-president of Newburyport Preservation Trust, supported the zoning changes. The Trust sent a 4-page letter of support with comments and suggestions. Protection of Newburyport's historic assets was overdue. He would like the Historical Commission's role strengthened, including review of the demolition documentation beforehand and their advice taken into the record of findings. The Commission's record of protecting Newburyport's historic assets was strong. They had knowledge of historic preservation and an awareness of great needs for historic repair, such as the city's Federal period brickwork. Commonly used masonry mortar speeds up deterioration. To protect historic masonry, repointing joints with historic masonry mortar rather than the harder Portland cement was recommended.

Alex Bellenger, 3 Dexter Street, supported the motions. The absence of sufficient guidance for historic preservation was evident. Councilors received his points of view in writing. People often state we've made it 250 years without preservation ordinances, but the economic landscape has changed. There is greater financial incentive to destroy because it offers more profit than restoring. That put great pressure on the community. If the ordinances don't work, they could be corrected. Tonight's motions start something that is overdue.

David Levine, 6 Milk Street, was opposed except for the demolition proposal. The city needs to continue growing by attracting people. Currently, there are mixes of different housing styles that don't fit together; Federals don't fit with 1<sup>st</sup> period houses. This is an attempt to get Fruit and High Street elites to take control of our houses and a surreptitious reactivation of the LHD. It is unclear how the \$300/day fine would be applied. Since 1971, hundreds of historic houses have been bought and restored. The majority of people coming to town are not trying to build 1950s ranch houses.

Linda Miller, 20 Ship Street, supported the proposals with recommendations from the Historic Preservation Trust and agreed with Tom Kolterjahn. Twenty-six demolitions in 2013 were alarming and too many.

Reg Bacon, 21 Strong Street, supported both amendments. Their protections were long overdue, served the public interest, and would contribute to continuing economic vitality. The proposed district encompassed the same area that the National Historic Register recommended based on its architectural significance. It's our duty to protect local and national assets.

Sharif Zeid, 192 Water Street, was opposed. The new resident asked what would change the day after this passed? The IDOD states nothing would ever change downtown. How can the downtown be the same forever? He was surprised that solar was noted specifically. There were more homeowners in the district than developers. Homeowners have to be able to add things to make their homes livable and additions require taking down more than 25% of a wall. The de facto demolition is too hard to define. Consider that you have no idea what's going on inside a house, no matter how it looks on the outside.

**Planning Board Joint Public Hearing  
February 19, 2014**

Carolyn Johnson, 46 Monroe Street, supported the proposals and did not want the character of the downtown to change in any way.

Judy Mouradian, 46 Liberty Street, supported the proposals and hoped everyone would remain open minded.

Nancy Caswell, 37 Ashland Street, was opposed to the ordinances. She has two businesses on State Street and has remodeled two historic buildings. She agreed with some of David Levine's comments and believed in the potential for Newburyport's growth. She was frustrated with discussion of protecting assets. She asked from whom were we protecting them? How many demolitions were that appalling?

Jeff Caswell, 37 Ashland Street, was opposed. Laws already existed to protect buildings. He bought two buildings downtown that were not structurally sound and went through four meetings. He believed no one would tear down an historic structure and gave examples of good additions.

Dirk and Wera Casagrande, owners of 82 State Street who reside in Arlington, were opposed. The burden put on property owners was without any give back. The Committee was not proposing to lower property taxes for the additional burdens owners would shoulder. They heard that downtown would be demolished if the amendments were not adopted, but had seen nothing significant to support that.

Lyndi Lanphear, 347 High Street, was opposed.

Kevin Lanphear, 347 High Street, was opposed.

Bill Barzak, 14 Collins Street, was opposed.

Mary Krajci, 232 High Street, supported the amendments in spirit but had concerns with the way they were written. The downtown district included many residential homes that should be excluded. Demolition by neglect, by its description, left everyone subject to its effects.

Carol McDermot, 92 Elizabeth Lane, was opposed and agreed with the Caswells. She invested in, and takes good care of, property on Pleasant Street. She objected to being told what was best for her investment.

James Lagoulis, 79 State Street, was opposed. He had seen a great many changes in the effort to preserve historic structures. The ordinances were unnecessary and unfairly imposed a financial burden on people in the commercial district. The bylaws should apply to everyone in the city.

Reggie Raycroft, 4 Dalton Street, was opposed, but favored preservation. He objected to the way the amendments were written. More clarification and thought was needed. What if an elderly person was unable to fix something? He particularly opposed the de facto demolition.

**Planning Board Joint Public Hearing  
February 19, 2014**

Bruce Menin, 83 Lime Street, supported the ordinances as long overdue. In the most conservative way possible the proposals reverted to the protections for preservation of 25 years ago. His streetscape will be damaged by a demolition next door. He described the effect of punching a hole in the community that could be filled with anything anybody wanted to build. The issue is larger than a conversation about property -- it is about neighborhoods, communities and people. Preservation is not a burden; it is a responsibility.

Trevor O'Brien, 70-80 State Street, was opposed. Areas south of Pleasant Street and north of Harris Street were excluded from urban renewal by the Acts and Resolves of 1961 as not being of sufficient historic nature, making us ineligible for federal financing and grants, unable to receive lanterns or buried utilities. We have ugly utility poles in front of our buildings that adversely affect competing with properties within the urban renewal district. The city's inconsistency in addressing this district excluded us from the benefits of urban renewal, but includes us in the proposal's onerous restrictions. Regulating commercial buildings is different than residential. Storefronts change consistently and historically to adapt to the changing needs of tenants. A tenant's use drives the need for changes. Businesses require closed fronts; retailers prefer larger windows. Cash flow, not regulation, is important in preserving these historic buildings. Giving buildings the ability to respond to commercial needs is essential to maintaining them and ensuring they pay taxes, whereas this proposal would hinder the flow of tax monies to schools. The proposal should have used the metes and bounds description in the Acts and Resolves of 1961.

Skip Motes, 26 High Street, supported the proposals. We're not protecting the homeowner; we're protecting the common good.

Mark Griffin, 4 Lotus Place, an attorney, was neither supportive nor opposed. The amendments would have an overarching impact. Clients need reasonable expectations of costs and this would increase the cost of permitting. Were the draft amendments modeled on existing ordinances? What is the experience of communities where these districts have been enacted? Would people put off renovating? Would boards have to meet more frequently? Property owners met a high standard to get a demolition permit today and demolitions seem to be a small percentage. The ordinances required more research, discussion, and legal study.

Jeanne Petrillo, 182 High Street, was opposed. She converted a multi-unit building into a home and wanted to renovate the barn. Going before boards costs time, fees, lost contractors, and more. She received arbitrary opinions about what was historically and architecturally significant. The proposals were based in fear; there was misrepresentation about who would benefit.

Judith Grohe, 14 Strong Street, supported the proposals. She heard a lot of fear. She had lived in a national historic house in crime-ridden neighborhoods in Boston. She trusted the boards, the open process, and said the ordinances would do a lot of good for the community.

Leslie Eckholdt, 36 Warren Street, supported the amendments with changes that included only commercial buildings in the overlay district. The city had been operating under outdated zoning regulations and updating has now begun. In the meantime, downtown was experiencing significant development and the city lacked authority or design review for new buildings. The

**Planning Board Joint Public Hearing  
February 19, 2014**

amendment giving the board authority to discourage demolition by neglect was intended to prevent the kind of neglect that made buildings unlivable, and therefore ripe for demolition. The amendments were interim and would help us learn what we want for our future.

Dick Hordon, 338 Merrimac Street, supported the proposals with changes. Removing individual homes and concentrating on commercial buildings in the downtown overlay district was one change. It was reasonable to have an indication of what would be built prior to a demolition approval, but as written, it appeared someone would drive around with a notebook and camera determining which houses had greatly depreciated in value. Many residents have broken windows, doors, and chimneys and the proposals generated fear. The demolition proposal, as written, did not convey that it was directed to developers to prevent taking down a house. There was no sunset clause, indicating interim ordinances stayed in effect until something changed. If the city said no to a homeowner that means the city is taking over your home.

Stephanie Niketic, 93 High Street, supported the ordinances. Her house is in the district. There were misunderstandings about why the amendments were important. The purpose of zoning was not only to address safety issues, but also property rights of those in a neighborhood. They serve as guidance for making changes and keep historic streetscapes in tact.

Rita Mihalek, 27 Charter Street, spoke in support. Maybe five locations in the U.S. had the concentration of national heritage that Newburyport has. All historic periods are represented here, making Newburyport a national treasure. Determining what the future held was not easy, but with so few similarly historic representations in the world, we should not sacrifice our national heritage for profit. We were at the cusp of that happening. The city's historic buildings should be around for another 100 years.

Chris Currier, 18 Monroe Street, was opposed. Newburyport was neglected in 1976 when his family moved here. Preservation ordinances made people move away. Materials are expensive for homeowners. The process will be costly, with more layers. We've done a good job so far.

Rob Germinaria, 2 Ashland Street, was opposed. The ordinances went too far. He admired the Caswell's work as part of Newburyport's rebirth. Boards have no skin in the game. The burden falls to the individual before the boards. The Committee was rushing approval before establishing common ground.

Marion Leighton Levy, 323 Merrimac Street, supported the proposals. She restored a couple of houses and heard old house restoration characterized as very expensive. Things could be done for the same price, often less, and last longer. The ordinances are not retroactive.

Edmund Shephard, 14 Dawes Street, was opposed to the proposals as written. A real estate broker who participated in the city's renaissance, he had owned a couple of historic houses. The downtown overlay district should not include personal residences. A more carefully devised plan for new construction and remodeling for downtown is needed. In favor of certain parts of the demolition ordinance, he said it was too 'all encompassing' and economic folly.

**Planning Board Joint Public Hearing  
February 19, 2014**

Alice Santarlaschi, 39 Forrester Street, was opposed to the proposals as written. She had waited for years on paint colors, losing contractors in the process. She was scared by the fact that something this important had so many gray areas that could be potentially intrusive and problematic. Having lived through this before, she would not have bought her house if she'd known it was on the National Historical Register. The ramifications of the ordinances as written needed scrutiny.

Bill Harris, 56 Lime Street, supported the proposals with changes. The board would be fully tasked, creating a large burden for them. Reducing the scope to commercial and mixed use, and involving the experienced Historical Commission would reduce the burden. The Historical Commission made sure most developers coming before them were redevelopers. Design review for new construction was needed.

Diana Kerry, 33 Temple Street, supported the proposals. She came to Newburyport because it amazed her. The list of National Historic Register houses across the city was astonishingly impressive. New economic pressures changed how people did things with their homes, increasing the importance of the ordinances.

Megan Williams, 22 Prospect Street, spoke about parking. When adding new units, especially downtown, no one has thought about homeowners who have no off street parking. Municipal lots filled with out-of-state cars parked for the duration, with their wipers up, was burdensome to residents.

Steve Rudolph, 349 High Street, supported reasonable protections. He favored compromise without listening to the small number of people driving fear and trying to take national politics writ large and impose it on Newburyport. Local government could be a force for good.

Sheila Mullins, 7 Parsons Street, supported the proposals with changes. The ordinances needed tightening and should not completely bypass the Historical Commission. Preservation was not the Zoning Board of Appeals or the Planning Board's strength. Strong protections for downtown were allowed to slip away in 2005, right after a 2004 National Architectural Trust inventory in Newburyport. Demolition development has already replaced one-third of the 2,600 homes on the National Historic Register. At that rate, by 2020, more than 60% of our building stock could be lost. We need to act now.

Robert Leavens, 84 Federal Street, was opposed. There were many problems with the ordinances, including violations of state law in multiple places. The mailed notice for the meeting arrived barely two working days before the meeting and did not include the draft proposals. There is no such thing as the 'Newburyport Historic District;' it is the Newburyport National Register District. Culture could not be addressed by ordinances; whose culture would be promoted over others?

William Silsby, 45 Broad Street, was opposed. The ordinance mandates homeowners not to let their property deteriorate, has no written standards, will put homeowners at risk of abuse from overseers of aesthetic issues, offers no tax incentives, and is an intrusion on personal property

**Planning Board Joint Public Hearing  
February 19, 2014**

rights. The city should examine its own examples of neglected publicly owned structures. The council has not thought this through and the ramifications are onerous.

Betsy Ware, 84 Federal Street, supported furthering steps toward preservation but had several issues. She asked the Committee to continue the community dialogue and not make decisions tonight. The LHD Study Committee took five years; this took less than two months. The notice did not adhere to Massachusetts General Law. There were technical issues with the proposal language. ADA was not addressed. The board did not have authority for what was proposed, was not tasked with oversight of maintenance, what got demolished, or historic preservation. It would take millions of dollars to update all the survey forms. She asked for three additional properties to be included and noted one of the top assets is the Joppa area. A land use and preservation planner for 30 years, she worked with many LHD study committees. The demolition bylaw should work. Look at neighboring community's conservation districts for guidance.

Mayor Donna Holaday supported finding common ground. Noting the large turnout and balanced conversation, she heard the support, common ground, and problems with the ordinances as written. She heard how important architecture in the community was. She reiterated that these were draft proposals and said language could be modified and changed to address the problems. People have talked about homeowners who have been here a long time. Everyone should be aware that things have changed. We're running out of land and have an obligation to protect and preserve our unique architectural history. Finding common ground would avoid making it onerous for homeowners.

Malcolm Carnwath, 22 Strong Street, supported reinforcing the architectural treasure that is here entirely by accident. When you lose one, it sets a precedent. An old post and beam house can't be replaced. The wood used to build old structures was often cut from trees competing for light in the forest, a situation that made the wood tighter grained, stronger, and more able to hold paint. Old structures are like pieces of fine furniture.

Joan Dangelmaier, 2 Savory Street, was opposed. Growth since the 70s shows what a fabulous job everyone has done. She doesn't see a problem, or understand the purpose, when this has already been voted down. Would it raise property taxes? Homeowners should get credit for what they'd done already. The elderly would have a hard time. She has spent time, money and legal fees going before the city boards. Would the city receive federal funding if this passed?

Jerry Mullins, 7 Parsons Street, supported modifications. We should talk through this without sidelining the Historical Commission. The Commission, versed in the principles of preservation, has a long history of restraint and working effectively with homeowners. Their expertise provides what's missing at the Zoning Board of Appeals and Planning Board for this to work.

Jeff Hyer, 291 Merrimac Street, opposed the demolition ordinance as written because of confusing language for homeowners, such as "contributes to the Newburyport National Historic District." What does contribute mean? The district includes brand new homes. He supported preservation, but questioned the accuracy of information on the Historic Register list. His own home was 20 years newer than what was stated on their website. The mechanics of enforcing the repair clauses are unclear. Restrictions, regulations, and more laws will not draw people here.

**Planning Board Joint Public Hearing  
February 19, 2014**

Public comment closed.

Chairman Bowie said Massachusetts' law states a public hearing notice must be published twice, no later than 14 days before a public hearing. That was done under his signature on February 4<sup>th</sup> and 11<sup>th</sup>. A notice mailed to individual homeowners was extra and not required. In light of the public dialogue, and that this meeting was the Planning Board's first opportunity to hear or have any conversation on the proposals, a vote tonight was unlikely. The board respected the history and tradition of Newburyport and he recommended continuing.

Chairman Bowie's first concern was inclusion of the Secretary of Interior standards. As the gold standard, it was a very high bar for this ordinance. Proposal language does not say comply, it says consider these standards. Clarification is needed for that. What constitutes contributory property? Wording in demolition delay needs defining. What is structural deterioration? Remaining value? Economic hardship? Those and other factors all needed clarification. This type of language raises concerns and problems. People want to have some idea of where a board is going to go. For example, with Section VI.C, we look for a public benefit. There has been heated conversation over the definition of what constitutes a public benefit. There is also a concern for time and money on the demolition delay. It would require more consultants in the process. Economic issues would require more financial information from homeowners, more than the city is currently prepared for. The language is silent about the mechanics of enforcement; enforcement is not viable and should be dropped. Design guidelines are good, but over reach in their level of detail with doors, windows, fences, etc. How would it work on the ground? Chairman Bowie didn't have answers for the issues he raised and said the board should look at other communities, particularly regarding demolition. The board routinely requests input from the Historical Commission on historical properties and they should be integrated.

Planning Board members said this was an important conversation. The proposal provided a conversation centerpiece for clarifying ideas and gaining collective wisdom. Now the board needed time to have the conversation. More clarification was needed in order to stay away from the gray area experienced with Section VI.C applications. The proposals have merit but need work, maybe paring down. The commercial/mixed use-only makes sense. Both perspectives were clearly heard and everyone's comments would be studied to enable a reasoned and informed decision.

Planning & Development Committee Chairman Cameron heard the concerns of those opposed. Some wanted to reduce the scope to commercial/mixed use instead of residential, that was an area of common ground. Some talked about a greater role for the Historical Commission. The Committee will consider that and they need to be more familiar with the National Register of Historic Places. He was unsure of the origin of listing properties there and needed to learn about that process before continuing the hearing. Councilor Eigerman said he did not intend his draft to be polished and finalized ahead of collaborating with 10 other councilors. Councilors all had enough information to suggest amendments. He was concerned by Chairman Bowie's comment that there had not been enough time and thought a continuance would be a mistake, more kicking the can, as in the past 43 years. Councilor Herzog's takeaways were: remove residential, focus on mixed-use and commercial; add design review for new construction; an increased role for the



**Planning Board Joint Public Hearing  
February 19, 2014**

Historical Commission; clarify enforcement; clarify the ramifications of painting and other details; create and adopt a government incentive; stop tossing around the word 'fear' and compromise instead. His ideas and questions were: Is a neighborhood conservation district preferred? Cambridge and Wellesley have them. Can the ordinances be written in less legalese and more plain language? Would burdened homeowners be okay with homeowner incentives? Does or should the Chamber of Commerce have a position? Councilor Cronin said it may not have been perfect but at least the notice got out. We do the best we can. Another councilor said the momentum was important. We will leave here with the opportunity to continue the dialogue. Councilor Tontar asked if Newburyport needed a demolition delay? Have the economics of Newburyport changed? There is tremendous demand to locate here. Is it likely that developers will pick up property and change the character of the city? If market forces continue as they have over the last decade, can we anticipate that we are in a new game? If we are in a new game, we have to take steps to protect our treasures. The market won't do that. When the market fails, that's when government has to step in and play a positive role and do some public good. He was in favor of protecting the city's character. As to the mechanics, the comments about how it will affect the Zoning and Planning boards are important considerations. Councilor Connell said tonight's comments reflected good efforts to consider the proposals. We've heard from a lot of people. Individual emails were not as well informed as those who spoke tonight. He needed to digest the comments and expected a continuation. He hoped the public would remain engaged at a high level. Councilor Guinta wanted to focus on things that could be agreed on. He heard some agreement and wanted to stop arguing about aspects where there was no agreement.

P&D Committee Chairman Cameron said the Committee would go through all the comments. Discussions would not take place outside of a public hearing. A resident asked if the continued meeting would include the parking? Chairman Cameron said no. Another resident asked about emails for responding. Chairman Cameron said emails addresses for councilors were on the city website.

Director Port said comments could be sent to the Planning Office, addressed to him or Kate Newhall Smith. His office would forward all comments to each member of the board and City Council.

Committee Chairman Cameron made a motion to continue to Wednesday, March 5 at 7 pm. Councilor Connell seconded and all voted in favor.

**5. Adjournment**

The meeting adjourned at 9:39 PM.

Respectfully submitted -- Linda Guthrie, Note Taker