



DRAFT OF A
ZONING ORDINANCE FOR THE
CITY OF WALTHAM, MASSACHUSETTS

BY

JOHN T. BLACKWELL

A. B. HARVARD UNIVERSITY

(1934)

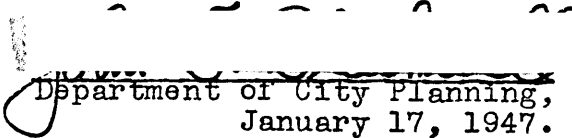
SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF
MASTER IN CITY PLANNING

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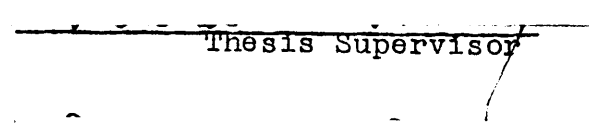
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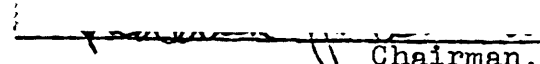
(1947)

Signature of Author:


Department of City Planning,
January 17, 1947.

Certified by:


Thesis Supervisor


Chairman,
Departmental Committee
on Graduate Students.

January 17, 1947

Dear Professor Adams:

Attached is my thesis study of a zoning ordinance for Waltham, Massachusetts, submitted in partial fulfillment of the requirements of the School of Architecture and Planning at Massachusetts Institute of Technology for the degree of Master in City Planning.

Waltham was chosen for study because of the challenge in its present relationship to the expansion of the rest of metropolitan Boston. This study attempts to contribute to the development of the zoning of any city on the edge of a metropolitan area -- a city formerly economically and sociologically self-sufficient or mainly so, but now increasingly being affected by the pressures and pulls of the metropolis of which it is a part.

Preceding the ordinance are four tiny editorial notes relating to its construction and wording.

The ordinance is followed by a brief discussion of city planning studies in relation to the preparation of zoning ordinances and a sketch of the principal planning problems in Waltham affecting the framing of this ordinance, together with some account of the methods followed and of the considerations determining the choices made.

The efforts of many citizens and municipal officers of Waltham to advance the life of that community and their friendly aid to my researches have made possible the completion of this thesis under the guidance of the faculty of the School of Architecture and Planning.

Respectfully submitted,

282675

EDITORIAL NOTES

Massachusetts General Laws, Ch. 40, Sections 27A and 30A state that these sections become applicable "after acceptance of this section as provided in section four of chapter four, ..." and a draft of a Waltham City Council Order accepting said sections therefore precedes the draft ordinance. The Massachusetts Secretary of State's office advises that acceptance in the manner prescribed in the statute would prevent any questions that might conceivably arise if instead the words of said sections were simply written into and made a part of the body of the Waltham Zoning Ordinance.

The General Ordinances of Waltham, 1946, also the edition of 1926, follows the scheme of numbering the sections of ordinances serially, without employing the term "article". Accordingly, this ordinance follows the same scheme, subsection numbers permitting precise reference to any given paragraph.

By definition in Ch. 1, Sec. 9 of the General Ordinances of the City of Waltham, citations or references to the General Laws of Massachusetts (thus G. L. Ch. ..., Sec. ...) are always to the Tercentenary Edition, unless otherwise stated.

For public convenience the scheme followed has been to annex any governing portion of the statute to that section of the ordinance which is controlled thereby.

Order #

AN ORDER RELATING TO THE ADMINISTRATION OF THE
WALTHAM ZONING ORDINANCE.

Be it ordered by the City Council of the City of Waltham
that the provisions of G.L. Ch. 40, sec. 27A and sec. 30A, be
and the same hereby are accepted by the City of Waltham.

Order #

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF WALTHAM, MASSACHUSETTS.

Be it ordained by the City Council of the City of Waltham as follows:

Chapter 23 of the General Ordinances of the City of Waltham, 1946, entitled "Zoning" is hereby amended by striking it out and inserting in place thereof the following:

CHAPTER 23
ZONING ORDINANCE
ADMINISTRATION AND ENFORCEMENT

Section 1. Authority, Purposes.

1.1 This chapter is ordained under the authority of G.L. Ch. 40, Sec. 25 - 30B inclusive, as amended, and G.L. Ch. 143 and any other laws thereto enabling.

1.2 The purposes of this ordinance are declared to be, among others, to protect the health, safety and well-being of all persons while within the City of Waltham, to promote the general welfare of communities, to conserve and enhance the value of property, and to encourage the most appropriate use of land throughout Waltham by dividing the City into zoning districts and regulating therein the location, use and height of buildings and of the open spaces about them, and by regulating the use and subdivision of land, whether or not built upon, in such manner as to lessen congestion

in the streets, to avoid undue concentration of population, to reduce the hazard from fire, to provide adequate light and air to buildings, and to increase the amenities of the City of Waltham.

Section 2. Interpretation and Conflict of Laws:

2.1 For the interpretation of this ordinance, certain words and terms are defined in this paragraph and in Section 9 of this ordinance; other definitions applicable to the phrasing of this chapter are those set forth in the General Ordinances of the City of Waltham, 1946, as amended, Ch. 1, Sec. 9 and Ch. 4, Sec. 18 and 19. The words "land" and "buildings" shall each include "any part thereof" unless expressly stated otherwise. The word "lot" includes "plot"; the word "building" includes "structure"; the word "occupied" shall include "designed, arranged or intended to be occupied." Where the verb "use" is employed it shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented or leased to be used"; the word "shall" is mandatory and not directory.

2.2 Wherever this ordinance imposes a greater restriction upon the use of buildings or land than is imposed by existing provisions of other Waltham ordinances, or of other laws, agreements or covenants, the provisions of this ordinance shall prevail. This ordinance shall not be so construed as to nullify any existing provisions of other Waltham ordinances, nor of other laws, covenants or agreements which may restrict the use of buildings or land more than this ordinance.

Section 3. Application and Enforcement of This Ordinance,
Permits, Certificates of Occupancy, Violations
and Penalties.

3.1 Buildings and land within the City of Waltham shall hereafter be used or occupied only in conformity with the provisions of the statutes and of this ordinance. Changes in the use of land and the construction, reconstruction, restoration, extension, enlargement, relocation or substantial alteration of any buildings shall be made only in compliance with the terms of this ordinance, except as exempted by the statute and by any further provisions of this ordinance.

3.2 This ordinance shall be enforced by the Superintendent of Public Buildings, also referred to as Inspector of Buildings, appointed under the General Ordinances of the City of Waltham, 1946.

3.3 Before proceeding with any work such as is mentioned in paragraph 3.1, every applicant for a permit for any construction, alteration or use of any building or land shall also file with the Inspector of Buildings an application for a certificate of occupancy. Upon request of the Inspector of Buildings, applications shall include plans to scale or sketches, drawn in ink, or prints thereof, giving dimensions, areas, radii, and angles of plots of land, the heights, dimensions and locations thereon of all buildings whether existing or proposed, their existing and intended uses, the number of families or persons to be housed and such photographs or other information as may be found necessary for the full and accurate exposition of the proposed construction, alteration or use. One

copy of any such plans and information, if and when approved by the Inspector of Buildings, shall be returned to the applicant with such working permit as may be granted. A second copy shall be attached to and become a part of the certificate of occupancy, to be returned to the applicant in such certificate if and when issued by the Inspector of Buildings. The third copy shall remain on permanent file in the office of the Inspector of Buildings, attached to and as a part of the statement of conditions under which said certificate of occupancy was issued.

3.4 No permit for excavation or construction shall be issued by the Inspector of Buildings until he is satisfied that the plans for and intended use of land and buildings conform to the provisions of this ordinance.

3.5 It shall be unlawful to use or occupy any part of any building or land until a certificate of occupancy shall have been issued therefor, dated and signed by the Inspector of Buildings, showing that the proposed use and construction are in accordance with this ordinance.

3.6 Nothing in this ordinance shall require any change in the construction, size, location or designated use of a building for which a building permit has been legally granted prior to the statutory notice of hearing before the Board of Survey and Planning regarding an amendment to this ordinance affecting such permit, required by G.L. Ch. 40, Sec. 28 as amended, provided that the foundations of such building shall have been completed within the statutory six months after said

notice, except that if such building operation shall be discontinued thereafter at any time for a period of ninety days or more, any further construction, also the occupation and use of such building and the open spaces on the lot surrounding it, shall conform to the provisions of this ordinance.

3.7 A municipal officer of board shall grant a permit, certificate or license only for such use of land or for such occupation or use of any building as will not violate any provision of this ordinance. Whenever any permit, certificate or license is refused or withheld because of some provisions of this ordinance, the reason therefore shall be clearly stated in writing.

3.8 The Inspector of Buildings, upon specific information in writing from any citizen, or upon his own initiative may, if so required by the City Council, shall institute any appropriate action or proceedings in the name of the City of Waltham to prevent, correct restrain or abate violations of this ordinance.

3.9 (a) Any use of buildings or land not elsewhere expressly permitted in this ordinance is hereby forbidden.

(b) No owner shall knowingly permit violation of the provisions of this ordinance by any tenant or occupant of his premises.

(c) Whoever shall violate any provision of this ordinance shall be subject to a fine of not more than twenty dollars per day for each and every day that such offense is committed.

(Note I: A part of the statute controlling a Zoning Board of Appeals is herewith inserted for the public convenience and guidance, but not to be construed as any part of this ordinance; it is the substance of that portion relating to the establishment of such Board, its membership, procedure in meetings, and the procedure for any person desiring to be heard by such Board; G.L. Ch. 40, Sec. 30, as amended, states in part that:-

Such ordinances shall provide for a board of appeals which may be the existing board of appeals under the local building or planning ordinance. Any new board of appeals established hereunder shall consist of at least three members, who shall be appointed by the mayor, subject to the confirmation of the City Council, for terms of such length and so arranged that the term of one appointee will expire each year; and said Board shall elect annually a chairman from its own number. Any board so established may also act as the board of appeals under the local building or planning ordinances.

Any member may be removed for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. Such ordinances may provide for the appointment in like manner of associate members of the board of appeals; and in case of a vacancy, inability to act, or interest on the part of a member of said board, his place may be taken by an associate member designated by the mayor.

The board shall adopt rules, not inconsistent with the provisions of any such ordinance, for conducting its business and otherwise carrying out the purposes of sections twenty-five to thirty A, inclusive. Meetings of the board shall be held at the call of the chairman, and also when called in such other manner as the board shall determine in its rules. Such chairman, or in his absence the acting chairman, may administer oaths, summon witnesses and call for the production of papers. All hearings of the board shall be open to the public. The board shall cause to be made a detailed record of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision, and of its other official actions, copies of all of which shall be immediately filed in the office of the city clerk and shall be a public record, and notice of decisions shall be mailed forthwith to parties in interest as hereinafter designated. (One paragraph transferred from here to Note II, q.v.)

Appeals to the board of appeals may be taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of sections twenty-five to thirty A inclusive.

Such ordinances may provide that, in addition to appeals provided for under the foregoing provisions of this section, appeals may be taken to the board of appeals by any officer or board of the city or town, or by any person aggrieved by any order or decision of the inspector of buildings or other administrative official in violation of any provision of sections twenty-five to thirty A, inclusive, or of any ordinance adopted thereunder, and may prescribe a reasonable time within which appeals under this paragraph and the preceding paragraph may be taken.

Any such appeal shall be taken within the time prescribed by ordinance in case the time for appeal is so prescribed, otherwise within a reasonable time provided by rule of the board of appeals, by filing with the officer or board from whose order or decision the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof.

The board of appeals shall fix a reasonable time for the hearing of any appeal or other matter referred to it or any petition for a variance, and give public notice thereof in an official publication, or a newspaper of general circulation, in the municipality, and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the board to be affected thereby, as they appear on the most recent local tax list, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

(For the remainder of said Sec. 30, see Note II.)

Section 4. Board of Zoning Appeals:

4. 1(a) A Board of Zoning Appeals, hereafter called Board of Appeals, is hereby established in accordance with the statutes authorizing such board; it shall have all the powers delegated thereto by G.L. Ch. 40, Sec. 25 - 30B inclusive, as amended, and it shall exercise said powers in the manner prescribed by statute and by this ordinance, wherever the statute does not control, and in accordance with such rules of procedure as said Board may adopt. Said Board shall also be the Board of

Appeals under G.L. Ch. 41, Sec. 81H -81J inclusive, as amended.

(b) The Board of Appeals shall consist of three regular members and two associate members, all of whom shall be citizens of Waltham. Among the three regular members there shall always be at least one registered civil engineer or registered architect, also one member of the bar, and of the two associate members, always at least one shall be chosen from some one of the above mentioned categories.

(c) Initial appointments of members shall be: One regular member for a term of one year, one regular member for a term of two years, one regular member for a term of three years, one associate member for a term of one year and one associate member for a term of two years, in accordance with the statute. Thereafter, as prescribed in the statute, the Mayor shall appoint annually one regular member for a term of three years and one associate member for a term of two years.

(d) In case of a vacancy, inability to act, or interest on the part of any regular member of said Board, his place shall be taken by an associate member designated by the Mayor.

(e) Said Board shall elect annually a chairman from its own number, and the Board shall appoint annually a secretary to keep the records of and give notice of the meetings of said Board.

(Note II: The substance of that part of the statute governing the greater part of the actions and powers of a Zoning Board of Appeals is herewith recited for the guidance and convenience of the public, but not to be construed as any

part of this ordinance; G.L. Ch. 40, Sec. 30 and Sec. 30A as amended, state in part that:-

Such ordinances may provide that the board may, in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinance in harmony with their general purpose and intent, and in accordance with general or specific rules therein contained.

Said Section 30 also states in substance that:-

The Board of Appeals shall have the following powers:

(1) To hear and decide appeals taken as provided in this section or in an ordinance authorized under this section.

(2) To hear and decide requests for special permits upon which such board is required to pass under such ordinance.

(3) To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land a variance from the terms of such an ordinance where, owing to conditions especially affecting such parcel but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of such ordinance, but not otherwise.

In exercising the above-mentioned powers such board may, in conformity with the provisions of sections twenty-five to thirty A inclusive, reverse or affirm in whole or in part, or may modify any order or decision, and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issue of a permit.

In exercising the powers under paragraph (3) above, the board may impose limitations both of time and of user, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter.

The concurring vote of all the members of the board shall be necessary to reverse any order or decision of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variance in the application of any such ordinance.

Any person aggrieved by a decision of the board of appeals, whether or not previously a party to the proceeding, or any municipal officer or board, may appeal to the superior court sitting in equity for the county in which the land concerned is situated; provided, that such appeal is filed in said court within fifteen days after such decision is recorded. It shall hear all pertinent evidence and determine the facts, and, upon the facts as so determined, annul such decision if found to exceed the authority of such board, or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

Costs shall not be allowed against the board unless it shall appear to the court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have precedence over all other civil actions and proceedings.

After acceptance of this action as provided in section four of chapter four, no appeal or petition under paragraph 3 of Section thirty for a variance from the terms of such an ordinance with respect to a particular parcel of land, and no application under Section thirty for a special exception to the terms of any such ordinance, which has been unfavorably acted upon by the board of appeals shall be considered on its merits by said board within two years after the date of such unfavorable action except with the consent of all the members of the planning board.

The superior court shall have jurisdiction in equity to enforce the provisions of sections twenty-five to thirty A inclusive, and any ordinances or by-laws made thereunder, and may restrain by injunction violations thereof.)

4.2 Any person aggrieved by reason of his inability to obtain a permit required by the provisions of this ordinance from any Waltham administrative official, and any officer or board of the City of Waltham or any person aggrieved by any order or decision of the Inspector of Buildings or other administrative official in violation of any provisions of this ordinance, may appeal to the Board of Appeals as set forth in G.L. Ch. 40, Sec. 30, as amended, provided said appeal be taken within fifteen days of such decision or order.

4.3 Hearings by the Board of Appeals shall be held promptly after such appeal or upon written application. At least ten days prior to every such hearing or adjournment thereof the Board of Appeals shall mail, postage prepaid, or deliver written notice of said hearing to the petitioner, to the owners of all real estate abutting or opposite the property regarding which said hearing is to be held, to the Board of Survey and Planning and to such other persons as the Board of Appeals may deem interested, except that in any matter involving a ~~substantial~~ change of use of land or of a building, the Board of Appeals shall also notify in the manner above specified the owners of all real estate within three hundred feet of the boundaries of the property regarding which such question has arisen and on such matters the Board of Survey and Planning shall make a report with recommendations before final action by the Board of Appeals. At least seven days prior to any hearing the Board of Appeals shall publish notice thereof in a newspaper of general circulation in Waltham.

4.4 In accordance with the statutes, subject to written applications to the Board of Appeals and after due notice and public hearing as specified in paragraphs 4.2 and 4.3 above, the Board is empowered:

(a) To hear and decide appeals wherein appellant alleges there is error in any decision or order made by an administrative official of the City of Waltham pursuant to the terms of this ordinance;

(b) To hear and decide, upon petitions not involving hardship, requests as to any district for special exceptions or for permits for any use, the authorization whereof is reserved to the Board of Appeals;

(c) In instances of special hardship, to authorize a minor variance in the application of the terms of this ordinance only where, upon appeal with respect to a particular parcel of land, it is clearly demonstrated that literal enforcement of the provisions of this ordinance would impose substantial hardship on the appellant because of unusual topographic or other conditions especially affecting such parcel but not affecting generally the zoning district in which said parcel is located, and only where the Board of Appeals determines by concurring vote of all its members that desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intents and purposes of this ordinance, but not otherwise. In every such instance the written record required of the Board by the statute shall set forth severally the individual findings of the Board, showing specifically how the appellant qualified or failed to qualify on each of the aspects postulated in this paragraph 4.4 (c) and how the variance, if any were granted, fulfilled each of said qualifications and all of them together;

(d) The inspector of buildings shall issue permits under section 4.4 only as directed by the Board of Appeals following the procedure laid down herein, and in conformity with the decisions of the Board of Appeals. Such permit, if

duly authorized by the Board, shall be issued within fifteen days after the decision of the Board has been filed with the City Clerk.

Section 5. Matters reserved to the Board of Appeals:

Upon written petition and after due notice and public hearing as provided in paragraphs 4.2 and 4.3, the Board of Appeals may determine and vary the application of the terms of this ordinance but only in harmony with the general purpose and intent thereof when in the judgment of the Board of Appeals the public convenience and welfare will be served and where an exception, if allowed, will not tend to injure the character of adjoining properties nor tend to impair the status of the neighborhood; under these circumstances and subject to appropriate conditions and safeguards the Board of Appeals shall:

5.1 determine in conjunction with the Board of Health of the City of Waltham the conditions under which subdivision plans shall be approved where no trunk sewer is available;

5.2 determine the conditions under which industries may be permitted in Industrial Districts;

5.3 permit in any district for yearly terms a roadside stand for the sale of only the products of that land of the owner that is within the City of Waltham, provided the owner complies with the front yard regulations of this ordinance and any other conditions that may be imposed by the Board of Appeals;

5.4 permit in Agricultural and Residence Districts the conversion of any one-family house existing at the time of

the adoption of this amendment to accomodate two familes provided:

- (a) the gross floor area of such house as defined in paragraph 9.07 be one thousand eight hundred square feet or more;
- (b) the appearance and character of a one-family house be preserved, allowable major exterior structural changes being only such as the Building Ordinance may require for separate access to each of the dwelling units of the house;
- (c) stairways leading to the second or any higher floor, unless in the rear of the building, be enclosed by the exterior walls of the building, and on a corner lot all such stairways shall be so enclosed;
- (d) the lot on which such house stands shall contain at least the minimum area required by paragraph for the district wherein such lot is situated. The Board of Appeals shall permit such conversions only on lots of at least the areas specified, notwithstanding the legal existence in the same neighborhood of other lots of smaller area, duly recorded prior to the adoption of this ordinance or of an amendment thereof.

5.5 permit in Agricultural and Residence Districts the construction of a group or groups of one-family, two-family or multi-family dwellings, or any combination thereof on a single lot provided:

- (a) in Agricultural and Park Districts, Residence AAA and Residence AA districts, such lot contains at least five thousand square feet area per family for each family proposed to be housed on said lot, and in other residence districts, at least three thousand square feet area per family for each family proposed to be housed on such lot;
- (b) the heights of such buildings comply with the regulations for the district in which they are situated;
- (c) such buildings are so grouped that the full length of the principal front of each building faces either on an accepted street or on an open space whereof the least dimension shall be the sum of the heights of opposite pairs of buildings facing thereon or sixty feet, whichever be the greater;
- (d) such buildings are so located that the rear facade of any one throughout its length is separated from the rear facade of the one nearest thereto by a distance averaging at least three-fourths of the sum of the respective heights of said buildings, and so that every part of every building, whether principal or accessory, is more than thirty feet distant (measured in a straight line) from any part of any other building on the same lot and from any point on the nearest boundary line of said lot;
- (e) each dwelling unit in such buildings shall consist of three rooms or more, exclusive of halls, stairs

and bathrooms, which three rooms shall aggregate five hundred square feet floor area or more, plus at least one hundred twenty square feet area for each additional room beyond the minimum three;

- (f) there be available on such lot a garage space or an off-street parking space for one automobile per family for each family proposed to be housed on said lot, such garages or parking spaces complying with all the yard regulations of this ordinance applicable thereto for the district in which said garage or parking space is situated.

5.6 permit in any district for yearly terms any use essentially similar in character to those uses expressly permitted to such districts by other sections of this ordinance applicable thereto, provided such proposed additional use be harmonious and compatible with or accessory to said permitted uses, or clearly necessary in the public interest, but one which has not been specifically mentioned elsewhere in this ordinance or which has developed since the adoption of this ordinance. This provision shall not be so construed as to contravene the obvious and substantial intent of other sections of this ordinance regarding any zoning district, nor shall it be invoked to allow the operation of any industry or business in any district where such industry or business is otherwise prohibited.

5.7 The board of survey and planning, on request of the board of appeals, shall, and when it deems it advisable may without such a request, make a report to the board of appeals with recommendations on the question of granting any application for

special exceptions hereunder.

Section 6. Amendments of This Ordinance:

6.1 The City Council of the City of Waltham may from time to time amend this ordinance or a district boundary indicated upon the Zoning Map in the manner prescribed in G.L. Ch. 40, Sec. 27 and 27A, as amended. Any person seeking an amendment shall commence by filing a written proposal of such amendment in triplicate with the City Clerk who shall forthwith deliver one copy thereof to the City Council and another to the Board of Survey and Planning.

6.2 If a proposed amendment involves a change in district boundaries and if the Board of Survey and Planning shall fail to approve such amendment prior to final action by the City Council, said amendment may be adopted only by the affirmative vote of three-fourths of all of the members of the City Council; otherwise it may be adopted by the affirmative vote of two-thirds of all of the members of the City Council.

(Note III: That portion of the statute governing zoning amendments is recited herewith for the public convenience and guidance, but not to be construed as any part of this ordinance; the substance of G.L. Ch. 40, Sec. 27 and Sec. 27A, as amended is as follows:-

(No ordinance amending, adding to or repealing a zoning ordinance) shall be adopted until after the planning board... has held a public hearing thereon after due notice given and has submitted a final report with recommendations to the city council,...or until twenty days shall have elapsed after such hearing without the submission of such report...(and that) no such ordinance...as aforesaid shall be adopted until after the city council or a committee designated or appointed for the purpose by it has held a public hearing thereon, at which all interested persons shall be given an opportunity to be heard. At least twenty days' notice of the time and place of such hearing before the city council or committee thereof shall be published in an official publication, or a newspaper of general circulation, in the municipality. After such notice, hearings and report, or lapse of time without report, a city council...may adopt, reject, or amend and adopt any such proposed ordinance... . No change of any such ordinance...shall be adopted except by a two thirds vote of all the members of the city council...provided, that in case there is filed with the city clerk prior to the close of the first hearing before the city council or committee thereof a written protest against such change, stating the reasons, duly signed by the owners of twenty per cent or more of the area of the land proposed to be included in such change, or of the area of the land immediately adjacent, extending three hundred feet therefrom, or of the area of other land within two hundred feet of the land proposed to be included in such change, no such change of any such ordinance shall be adopted except...by a three fourths vote of all the members thereof.

No proposed amendment to such an ordinance which has been unfavorably acted upon by the City Council shall be considered on its merits within two years after the date of such unfavorable action unless the adoption of such an amendment is recommended in the final report of the planning board to the City Council, required above.

DISTRICTS

Section 7. Styles of Zoning Districts Established:

For the purposes of this ordinance, the City of Waltham is hereby divided into nine classes of districts, as follows:

Agricultural and Park Districts

Residence AAA Districts

Residence AA Districts

Residence A Districts

Residence B Districts

Residence C Districts

Business A Districts

Business B Districts

Industrial Districts

Said districts are as shown, defined and bounded on the map entitled "Zoning Map of the City of Waltham", or as it may hereafter be amended, which map is attached to and made a part of this ordinance together with all explanatory matter thereon and is to be kept on file in the office of the City Clerk.

Section 8. Determination of District Boundaries:

The location of the boundary lines of the districts shown upon the Zoning Map shall be determined as follows:

8.1 Where the boundary lines are shown upon said map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.

8.2 Boundary lines located outside of such street lines and shown approximately parallel thereto shall be regarded as parallel to the street center-lines and one hundred twenty-five feet distant therefrom unless otherwise stated; figures placed upon said map between such boundary lines and center-lines are the distances in feet of such boundary lines from such center-lines, such distances being measured at right angles to such street center-lines unless otherwise indicated.

8.3 In all cases which are not covered by the other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, or if distances are not given, then by the scale of said map.

8.4 Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the Inspector of Buildings, provided, however, that any person aggrieved by his decision may appeal to the Board of Appeals.

8.5 Where a district boundary line divides a lot as existing at the time this ordinance takes effect and the major portion of such lot and some street frontage are in the less restricted district, the regulations relating to that district shall extend as well to such portion of said lot as is not more than twenty-five feet within the more restricted district.

USE, HEIGHT, AREA AND YARD REGULATIONS.

Section 9. Definition and Classification of certain terms

employed in this ordinance:

- 9.01 A "family" is any number of individuals living together as a single housekeeping unit and using a single cooking outfit.
- 9.02 "Dwelling"
- (a) A "one-family" dwelling is any free-standing building occupied exclusively by a single family.
 - (b) A "two-family" dwelling is any free-standing building occupied exclusively by two families who live and cook independently of each other, whether one above the other, separated by a floor, or side by side, separated by a partition or a common party wall.
 - (c) A "multi-family" dwelling is any building used by three or more families who live and cook independently of one another; this includes group-, row-, tenement-, and apartment-houses, whatever the design, arrangement or class of construction.
 - (d) An "apartment house" is any residence building divided into four or more independent suites of rooms, a single family living and cooking in each suite.
- 9.03 A "hotel" is any building containing a general public dining room or cafe or both, also containing fifteen

or more sleeping rooms or suites of rooms above the first story, and offering food or shelter or both to residents and guests for compensation, but not affording any facilities whatever for individual cooking or housekeeping in the privately rented rooms or suites.

- 9.04 A "boarding house" is a dwelling in which meals, or rooms and meals, are offered for compensation to more than four but less than fifteen persons not within the second degree of kindred to the proprietor, in the rented rooms whereof no cooking is allowed. This classification is not to include the dormitories of public or semi-public charitable, educational or philanthropic institutions.
- 9.05 A "rooming" or "lodging house" is a dwelling in which rooms without cooking facilities are rented individually for compensation to more than four but less than fifteen persons not within the second degree of kindred to the proprietor. This classification is not to include the dormitories of public or semi-public charitable, educational or philanthropic institutions.
- 9.06 "School" or "College" means a tax-supported public school, college or research institution, or a privately supported non-profit school, college, or research institution, including the dormitories thereof, if any, where regular instruction is given to students

present during the greater part of usual working hours daily, predominantly five days of each week for eight months or more of each year.

- 9.07 The "gross floor area" of a building is the aggregate within the exterior walls of the building of each of the floors thereof, excluding any open attic spaces or half-stories, and, in dwellings only, excluding also the area of all basement rooms or spaces.
- 9.08 The "height of a building" shall be measured from the average natural ground level within ten feet horizontally outward from the principal front of that building, or from the established grade if such there be, whichever be the higher, vertically up the center-line of said principal front to the average level of the highest main roof on that building.
- 9.09 A "lot" is any continuous tract or parcel of land in single ownership throughout its extent.
- 9.10 A "corner lot" is that portion not exceeding one hundred fifty feet frontage either way of any lot directly abutting some part of an intersection of streets which are at least thirty feet wide and where the interior angle between the center-lines of the intersecting streets bounding such lot does not exceed one hundred twenty degrees. Lots abutting a curve or bend in any street not at an intersection may also be considered corner lots at the owner's option, but in any one lot not more than twenty

thousand square feet directly contiguous to such curve or bend may be so considered; provided the center-line of the street changes direction by not less than sixty degrees in the course of such curve or bend, and provided the major frontage of such area lies between the point of curvature and the point of tangency (or their equivalent) of said curve.

9.11 "Street," as used in this ordinance, shall mean any public or private way at least thirty feet wide laid out for or used publicly for vehicular traffic.

9.12 A "yard" is any open space required on a given lot in relation to such building as may be located thereon.

(a) A "front yard" is an open space across the full width of such lot and extending from the front line of any building thereon to the front line of such lot.

(b) A "rear yard" is an open space across the full width of such lot and extending from the rear line of any building thereon to the rear line of said lot.

(c) A "side yard" is an open space extending from the front yard to the rear yard on such lot and between any building thereon and the adjacent side line of said lot.

9.13 The term "customary home occupation" is understood to include such personal skill or professional ability as by its very nature renders a person thus skilled liable to be called upon frequently by persons not members of his family to exercise said ability even while he is at home as well as at any other place

more usual for such occupation. Such skills might include, among others, those of a teacher, nurse, doctor, dressmaker, milliner, author, musician, artist, engineer, architect or lawyer; such skills would necessarily be limited as to extent of practise in residence districts by the implications of the "customary" and "home" aspects of such exercise thereof. For the purposes of this ordinance it shall be deemed a customary home occupation for the family resident in any given dwelling to lease rooms or furnish meals to not more than four persons who are not members of the family there resident.

9.14 An "accessory use" is any use clearly subordinate and incident to the principal use being made of any given lot; the "accessory" aspect of any such use is maintained only so long as such use is located on the same lot with the principal use to which the relationship "accessory" is claimed and so long as the area, volume or extent of such accessory use remains minor in comparison with the area, volume or extent of said principal use.

9.15 An "accessory building", similarly, is any building clearly subordinate and incident to the principal building occupying any given lot, so long as said accessory building is being used in a manner secondary and supplementary to the principal use being made of such principal building and of minor extent in

comparison therewith; such as a barn, stable shed, private garage, playhouse, studio or conservatory.

Section 10. Uses permitted:

In the following districts the designated uses of land and buildings are permitted and no others except as may be specified elsewhere in this ordinance:--

10.1 in Agricultural and Park Districts only:--

Riding Academies and any use or building accessory thereto as defined in paragraphs 9.14 and 9.15:

10.2 in Agricultural and Park Districts and in all Residence Districts:--

- (a) Farms, truck gardens, nurseries and greenhouses, whether full-time or part-time, whether commercial or private;
- (b) one-family dwellings;
- (c) conversion of certain one-family dwellings to accommodate two families but only under special permit from the Board of Appeals as provided in paragraph 5.4;
- (d) construction of a group or groups of dwellings on a single lot but only under special permit from the Board of Appeals as provided in paragraph 5.5;
- (e) customary home occupations when conducted by any member of a family regularly resident in a given dwelling if such occupational activity be confined to one-third or less of the gross

floor area of such dwelling and not more than three persons are regularly engaged in such activity in said dwelling and if each family so engaged displays only one professional announcement sign of two square feet area or less but no other advertising visible outside the dwelling, provided further that no hospital facilities be furnished in a residence building where such home occupation is practised by a physician, surgeon, dentist or registered nurse;

- (f) schools and colleges, churches and parish houses;
- (g) public libraries, police and fire stations, court houses, public parks, public playgrounds, public reservations, water towers, reservoirs, public memorial buildings;
- (h) cemeteries, including any crematory therein;
- (i) public and semi-public philanthropic or charitable institutions, including hospitals, sanitar~~ia~~ and other medical institutions, but not correctional institutions nor places of detention;
- (j) membership clubs devoted to outdoor sports and social and recreational meetings, including, among others, golf courses, country clubs and tennis clubs, provided no chief activity thereof is conducted as a gainful business;
- (k) commercial airport, railroad, bus or street railway passenger stations and rights of way including customary accessory services therein, but excluding switching

yards, merchandise storage yards, freight yards, motor trucking yards or motor trucking depots;

- (l) Telephone exchange buildings, radio or television transmitter towers and associated operating buildings, but not their broadcasting studios, and only if so constructed as to harmonize with other buildings in the same district, provided that in the districts above specified no bulk storage yard, motor truck garage, maintenance or repair shop be associated with any one of the uses mentioned in this paragraph, 10.2 (1);
- (m) Any use accessory to the foregoing, as defined in paragraph 9.14, excluding advertising signs, billboards, placards and posters, provided however that on premises for sale or for rent may be displayed a "for sale" or "for rent" sign or signs whereof the total area, whatever their number, aggregates twelve square feet or less;
- (n) Any building accessory to the foregoing, as defined in paragraph 9.15, including private garages for not more than three automobiles on any one lot, except that for multi-family or group dwellings, individual garage spaces to the number required by this ordinance may be arranged either as an integral part of such residence building or in an accessory building;

10.3 in Residence B districts all uses permitted under 10.2 but subject to any conditions and restrictions set forth therein and the following:--

- (a) two-family houses,
- (b) boarding houses,
- (c) any use accessory to the foregoing, as defined in paragraph 9.14;

10.4 in Residence C districts all uses permitted under 10.3 but subject to any conditions and restrictions set forth therein and the following:--

- (a) rooming houses,
- (b) multi-family dwellings, apartment houses and apartment hotels,
- (c) hotels,
- (d) any use accessory to the foregoing as defined in paragraph 9.14;

10.5 in Business A districts all uses permitted in 10.4 but subject to any conditions and restrictions set forth therein and the following:--

- (a) automobile filling or service stations only, under limitations hereafter prescribed;
- (b) retail stores, not exceeding two thousand square feet gross floor area per store, for the local retail sale of bakery products, confectionary, groceries, drugs, flowers, notions, men's apparel and women's apparel, and hardware;

(c) the places of business of a barber, hairdresser, manicurist, dressmaker, milliner, electrician, newsdealer, shoe repairer and shiner, tailor and presser, and a local collecting and distributing agency for a laundry or cleaner and dyer, provided each building or premises so used does not exceed two thousand square feet gross floor area;

(d) any use accessory to the foregoing, as defined in paragraph 9.14, provided that in Business A districts storage shall be limited to a reasonable supply of those articles which are to be used, displayed or sold on the premises;

All buildings used for residence purposes in Business A districts shall comply with lot area, lot coverage, building height and yard requirements for dwellings in Residence A districts.

10.6 in Business B districts all uses that are permitted under paragraph 10.5 but subject to any conditions and restrictions set forth therein and the following:-

- (a) Retail store buildings not limited as to floor area and use by paragraph 10.5, but complying with all the other terms of this ordinance;
- (b) Restaurants and other eating places;
- (c) Public buildings, banks, business and professional offices, broadcasting studios;

- (d) Commercial places of amusement or assembly, such as theatres, halls and clubs;
- (e) Wholesale merchandising and storage, including among others that of fresh vegetables and packaged food products, fodder, fuel, hardware, plumbing, electrical goods and building materials;
- (f) Light manufacturing, producing, processing, altering, fabricating, printing, finishing or assembling, to cover on all floors together not more than one-half of the area of a given lot and on a scale requiring not more than fifteen horsepower or steam in excess of fifteen pounds gauge pressure, employing electricity or other substantially noiseless or unoffensive motive power and quiet machinery and processes free from odors, vibration, smoke or other neighborhood disturbing agencies;
- (g) Garages and buildings for the storage, repair and sales of motor vehicles, but no automobile junk yard or outdoor automobile selling space;
- (h) Advertising signs and billboards as regulated by law, provided they are erected at least two feet above the ground and are not more than ten feet high, nor more than twenty feet long, nor less than three feet distant from any other structure;

- (i) Any use similar in character to or accessory to any of the foregoing uses and not hereinafter prohibited;

10.7 In Industrial Districts all the uses permitted under paragraph 10.6 but subject to any conditions and restrictions set forth therein and

- (a) in industrial districts buildings shall not be used for residence purposes, except that under special permit from the Board of Appeals one dwelling unit for one family may be permitted in association with a building used for industrial purposes, subject to such further conditions as the Board of Appeals shall impose;
- (b) junk yards and automobile junk yards may be permitted by the Board of Appeals in industrial districts, if surrounded by a solid enclosure more than six feet high, and subject to such further conditions as the Board of Appeals shall impose;
- (c) any other legal use, trade, industry or manufacture not hereinafter prohibited which in the opinion of the Board of Appeals when conducted under proper conditions and adequate safeguards will not create corrosive, toxic or noisome fumes, gas, smoke or odors or obnoxious dust, vapor or wastes or offensive noise or vibration, detrimental to the public health, safety or general welfare;

10.8 The following uses are considered to be of such undesirable character or degree in the foregoing respects as to be prohibited absolutely from every zoning district of the City of Waltham:-

- (a) Stockyards, slaughterhouse, or abattoir;
- (b) Fertilizer manufacture, fat rendering, manufacture of tallow, oils or greases;
- (c) Glue, size and gelatin manufacture;
- (d) Petroleum and kerosene refining, distillation or derivation therefrom of petroleum by-products;
- (e) Manufacture or storage of explosives, except that five hundred pounds or less of explosives for private use only, and not for sale, may be stored subject to law and other regulations of this City.

Section 11. Additional Use Regulations:

- 11.1 No accessory building shall be occupied for residence purposes in any district, except that in Agricultural and Park and Residence Districts a portion of a stable or garage may be occupied by an employee of the owner or tenant of the premises.
- 11.2 Neither a basement space nor a half-story attic space shall be occupied for residence purposes in any district, except that one janitor's apartment shall be permitted in the basement of a multi-family dwelling provided such apartment has separate access directly to and from out-of-doors by its own doorway in an exterior wall of such building.

11.3 No permit for the erection or enlargement of a garage for more than five motor vehicles other than a private garage used primarily by the resident occupants of a multi-family dwelling or hotel, or for a motor vehicle service or filling station, or for a commercial establishment selling or serving liquor, or for the conversion of any premises not so used to be used in such manner in any business or industrial district, shall be issued if the principal entrance to premises used for any one or more of these purposes, or any use accessory thereto, is located within two hundred feet radius of the boundaries of a lot used or reserved to be used for

- (a) a college or school as defined in paragraph 9.06;
- (b) a hospital maintained wholly or largely as a philanthropic institution;
- (c) a church or public library.

Section 12. Lot Area, Lot Width, Lot Coverage, Yard and Building Height Regulations:

12.1 For each class of districts the regulations governing the minimum lot area and lot width for dwellings, the requirements of maximum and minimum front yards, rear yards, and side yards, and the maximum allowable height of buildings are hereby established as set forth in the accompanying table, entitled, "Table of Area, Yard and Height Regulations," and by this reference the said table and the regulations provided therein are declared to be an integral part of this ordinance.

TABLE OF AREA, YARD AND HEIGHT REGULATIONS

DISTRICT	MIN. LOT AREA ¹ (sq. ft.)	MIN. LOT WIDTH ¹ (feet)	MAXIMUM BUILDING COVERAGE (% of lot)	MAXIMUM BUILDING HEIGHT ² (feet)	MIN. FRONT YARD ³ (feet)	MIN. SIDE YARD ³ (feet)	MIN. REAR YARD ³ (feet)
Agricultural and Park	200,000	150	20%	35	30	30	30
Residence AAA	20,000	100	25%	35	30	25	30
Residence AA	12,000	90	25%	35	30	20	25
Residence A	8,000	80	25%	40	25	15	25
Residence B	8,000	80	33%	40	20	15	20
Residence C	6,000	60	4 stories or less 50% 5 stories 40% 6 stories 30%	65	10 but every bldg. must set back $\frac{1}{2}$ ft. from the street center-line	5 for bldgs. up to 30 ft. high plus $\frac{1}{5}$ the bldg's ht. in excess of 30 ft.	15 for bldgs. up to 30 ft. high plus $\frac{1}{5}$ the bldg's ht. in excess of 30 ft.
Business A	None required see footnote 1		50%	40	10		none required see footnote 3
Business B	see footnote 1		65%	80			none required see footnote 3
Industrial			85%	100			none required see footnote 3

Footnote (1): See Section 14.4 for Lot Area and Lot Width Exceptions.

Footnote (2): See Bldg. Ht. Exceptions in paragraph 12.2 following.

Footnote (3): See Yard Exceptions in paragraph 12.3 following, also off-street parking areas required by paragraph 12.8

12.2 The provisions of this section with respect to height shall not apply to church spires, belfries, cupolas, chimneys, cooling towers, elevator bulkheads, radio and flag poles or gas holders or if not occupying an area greater than 25% of the lot area, to domes, ornamental towers, observation towers, water towers, hose towers, penthouses, head houses, water tanks and scenery lofts, provided there is no human occupancy of such structures.

12.3 Exceptions to the yard regulations tabulated in 12.1 above are as follows:

(a) Owners of corner lots may call either street line the front complying accordingly with all the other requirements of this section, especially 12.4 (b);

(b) Dwellings in Residence A Districts and Residence B districts may be set as near the street line as the average of the set-backs of the existing buildings in the lots adjacent on either side of the lot in question, provided that every part of any building shall be set back at least fifteen feet from the street lot line, and on corner lots, at least twenty feet, to assure safe visibility for motor traffic;

(c) In Business B and Industrial Districts, buildings used primarily as dwellings shall comply with the lot coverage and yard requirements for Residence C districts.

(d) Along the whole boundary line, except a street line, between any business or industrial district

and any residence district, an open yard at least ten feet wide shall be required in the business or industrial district.

12.4 All yards and courts shall be wholly open to the sky and unobstructed except by accessory buildings in the rear yard areas where permitted, provided that:--

Cornices and eaves may project not more than three feet over any front or rear yard; over any side yard to an extent not exceeding one third of the width of such yard or court and not exceeding two feet; except within five feet of the front wall, where they may project in any case not more than three feet; sills, leaders, belt courses and ornamental features may project not more than six inches into or over any yard or court; a bay window not exceeding ten feet in width may project into a front, side or rear yard not more than three feet and not more than one third of the width of the side yard in any case and an open fire escape may not thus project more than five feet.

12.5 No lot on which a dwelling house or club house is situated, whether heretofore or hereafter placed, shall be reduced in area or frontage, if such lot is smaller than is hereby prescribed or if by such reduction it would be made smaller than is hereby prescribed, except in either case by a taking by eminent domain or by a conveyance for a public purpose.

12.6 Buildings shall hereafter be erected only on lots which front on a street, road or way at least thirty feet in

width.

12.7 (a) An accessory building which is detached and not part of the main building may be built in the rear yard area, provided that not more than twenty-five per cent of the required rear yard area is occupied by accessory buildings. An accessory building shall not be located nearer than ten feet to the principal building. An accessory building may be placed on the rear or side lot line provided that the written consent of the abutting property owner or owners is obtained for such location of the building; otherwise it shall be placed not nearer than ten feet to any side or rear lot line.

(b) An accessory building shall not exceed fifteen feet in height above the ground level, except such accessory building as may be used for dwelling purposes

12.8 Off-street parking shall be provided in the following proportions in the districts designated, and such parking spaces may be deemed side or rear yard spaces for the purposes of this section, but no storage of automobiles shall be permitted to take place in any front yard area:

(a) In the case of a rooming house, fraternity or sorority house, or dormitory a parking space shall be provided for at least one vehicle for each ten roomers which such building is intended or designed to accommodate.

(b) In Business "A" and "B" Districts and in any Industrial District, space for loading or unloading of vehicles shall be provided in connection with every building or premises occupied by any business, trade, or industry, and any required front or rear yard may be used for such purpose, provided that where the required front or rear yard is not accessible or usable for the loading or unloading of vehicles, an additional area shall be provided for such purpose equivalent at least to the required rear yard area.

(c) Space for parking of vehicles shall be provided in connection with any building used as a theatre, auditorium, or other place of public assemblage, except churches. Such parking space shall be not less than two hundred square feet for each five permanent seats in such place of public assemblage.

12.9 All gasoline filling stations and roadside stands shall be located at least twenty feet from the street property line, shall have provision for parking, and no filling shall be done except in cars standing on the property of the filling station.

Section 13. Garages:

13.1 A private garage in which no business, service or industry is conducted, is a permitted use in any residence district but only on the same lot with a principal building to which it is accessory. On any such lot, private garage space may be provided for not more than three motor vehicles.

Not more than one such vehicle shall be a commercial vehicle and it shall not exceed three tons capacity. In a private garage, space shall not be leased for a commercial vehicle, nor in a residential district for more than two vehicles of any kind.

13.2 Within sixty feet of any street line no garage shall be within ten feet of any adjoining lot except that a garage or pair of garages may cross a common lot line by mutual agreement between adjoining property owners.

13.3 Community or group garages may be permitted by the board of appeals in any residence district, even on an otherwise vacant lot, but only if the owners of eighty per cent or more of the area of such block plus the areas of lots fronting in any part opposite such lot, and including all owners of lots immediately adjacent to the lot in question, shall consent in writing thereto. Such garages shall conform with all the requirements in the chapter for accessory buildings in residence districts and there shall be no service for gain to other than the tenants of such garages.

13.4 Any garage or assembly of garages on one lot, having a capacity for more than five cars, shall be subjected to all restrictions herein prescribed for a public garage. No garage in any residence district shall conduct a repair shop where motor power is employed in driving machinery.

13.5 No public garage in any business district shall have any part of its shop on the first floor within twenty feet of any entrance or exit for vehicles. No commercial work on motor vehicles shall be done out of doors, except that emergency repairs may be made in a public street in the case of a breakdown. There shall be no opening (except chimney openings) through the walls or roof of that portion of any building, used as a public garage, which is within fifteen feet of any party lot line, except for wire glass windows in fixed metal sashes and frames and for emergency fire doors.

13.6 There shall be no door or driveway for vehicles in connection with any public garage within fifty feet of any residence district boundary line, nor shall any filling station or gasoline pump be located within such distances.

NOTE IV That part of the statute regarding the application of a zoning ordinance to existing buildings and existing uses of land or buildings is quoted herewith for the public convenience and guidance but not to be construed as any part of this ordinance; G. L. Ch. 40 Sec. 26 states that

"Such an ordinance ... or any amendment thereof shall not apply to existing buildings or structures, nor to the existing use of any building or structure, or of land to the extent to which it is used at the time of adoption of the ordinance ..., but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for

its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent. Such an ordinance ... may regulate non-use of non-conforming buildings and structures so as not to unduly prolong the life of non-conforming uses."

Section 14. Application of this ordinance to Existing Buildings and Existing Uses of Land and Buildings as non-conforming uses:

14.1 Any building legally existing and any use lawfully being made of land or buildings at the time of adoption of this ordinance as amended which does not conform therewith may be continued within the area, volume or extent of such use existing at the time of adoption of this amendment, subject to limitations prescribed hereunder.

14.2 A non-conforming building may be repaired, structurally altered, strengthened or restored to safe condition in compliance with any lawful requirements of the Inspector of Buildings, but no building or land containing a non-conforming use shall hereafter be altered or enlarged nor shall the use thereof be changed unless the altered or enlarged portion of such building or the new use of such land or building conform to the provisions of this ordinance for the zoning district wherein it is situated.

14.3 (a) If land or buildings, lawfully being put to a non-conforming use, be changed to a use permitted in the district wherein such land or buildings are situated, they shall never be changed back to any non-conforming use.

(b) A non-conforming use at any given location shall not be replaced by any other non-conforming use.

(c) If a lawful non-conforming use of land or buildings be discontinued for twelve consecutive months or more, such non-conforming use shall not be resumed.

(d) Nothing in this ordinance shall prevent the restoration of a building or the resumption of any lawful use thereof if such building be damaged by fire, flood, hurricane, earthquake, explosion, war, riot, or act of God or act of the public enemy subsequent to adoption of this ordinance to an extent not exceeding fifty per cent of such building's reproduction value exclusive of foundations at the time of said damage, provided said building be fully restored and the same use thereof as was being made at the time of damage be actively resumed to the same or lesser extent as formerly within twelve months of the date of such damage. No building or premises thus damaged may be put to a different use or used as before but to a greater extent unless such new use or the expanded portion of the former use complies fully with the terms of this ordinance.

14.4 As directed by the statute, this ordinance, as amended, when adopted shall apply to changes of use of land. Accordingly, lots lawfully platted and duly recorded prior to the date of the first hearing required by the statute on this amendment, but of size smaller than the minimum hereby required for the district wherein said lots are situated are

herewith classified for regulation as to change of use under the terms of this ordinance as follows:--

(a) A lot of sub-minimum size and duly recorded as aforesaid which lawfully contained a building on the date above specified or which was then and still is being put to some other lawfully non-conforming use may be continued in that same use under the terms of the preceding paragraphs of this Section 14, and the lot area and lot width requirements of this ordinance shall not apply to such lot until said lot is adjoined by other land of the same owner available for use in connection with said lot, whereafter the use of said lot may be changed by being built upon or otherwise in conformity with the provisions of this ordinance, but only in such units of common ownership as will fulfill all the requirements of this ordinance for the district wherein said lot is situated, including lot area and lot width.

(b) An isolated lot of sub-minimum size and duly recorded as aforesaid but unimproved on the date above specified may be built upon within three years from said date provided such building complies at least with the lot coverage and yard regulations of this ordinance for the district wherein said lot is situated.

(c) An isolated lot of sub-minimum size and duly recorded as aforesaid but unimproved on the date above specified and still unimproved three years from said date shall be deemed discontinued as to non-conformance in lot

width and lot area for potential building uses; thereafter said isolated unimproved lot shall not be built upon unless united in ownership with adjoining land to form a unit of such size as will fulfill all the requirements of this ordinance, including lot area and lot width.

(d) Adjoining lots of sub-minimum size and duly recorded as aforesaid which were in a common ownership on the date above mentioned, whether improved or unimproved, may be continued in such lawful uses as were being made of said lots on said date, but the uses thereof shall not hereafter be changed, nor shall said lots be built upon, except in such units of ownership as will equal or exceed the minimum lot areas and lot widths required by this ordinance for the district wherein said lots are situated.

Section 15. Validity:

Should any section, provision or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the portion so declared to be invalid.

COMMENTARY

City Planning Studies and Zoning Ordinances:

This attempt to draw up a zoning ordinance convinces me that any such effort must be preceded by whole-hearted planning research. Although a "zoner" may be asked only to do one thing -- write an ordinance -- it appears to me that the zoner is obliged to know something about all of the problems affecting the municipality he would "zone", as Mr. Russell Black has pointed out. Only when world-wide, national, regional and local problems are kept continuously in view in terms of a specific municipality can a zoning ordinance soundly promote the commercial, industrial, agricultural and residential interests of such town in just balance and with due regard to probable future developments. Present continuation of the United States' and world-wide trend toward concentration of population in metropolitan clusters makes this approach all the more necessary in the case of such cities as Waltham, Massachusetts.

It is to be hoped this draft ordinance shows some benefit from the writer's earlier studies of Waltham, its economic base, housing, sociological composition, planning legislation, and transportation needs; from these enquiries emerges the view that the dominant aspect of Waltham's "manifest destiny" just at present is its part in the re-integration of metropolitan Boston.

Waltham - The Trend of Its Relationships with Surrounding Towns:

Waltham is the middle third of territory formerly embraced by Watertown which was settled in 1630, one of the original twelve towns of the Massachusetts Bay Company. At their greatest geographical extent these twelve towns once held all the land from the Ipswich and Shawshine Rivers on the north around to the Plymouth Colony and Rhode Island lines on the south, and westward to indefinite boundaries, mostly the Blackstone, Charles, Sudbury and Concord Rivers. As clusters of settlement grew here and there, this territory -- essentially the area of metropolitan Boston today -- began to split up into smaller towns, each settlement desiring to manage its own affairs.

Waltham broke away from Watertown in 1738. Seventy-five years later its industrial growth really started with the establishment of water-powered cotton mills on the Charles River in 1813, said to be the first plant in America processing cotton from fibre to textile all by machinery and under one roof. The agricultural pursuits of the town were not yet much affected. The lovely Christopher Gore house down river straddling the Watertown line had only been completed in 1804, and the place was still farmed. The Waltham Cotton and Woolen Company, founded 1812, took up a portion of the river bank just above Gore Place. In 1854, a ten-year old watch company

moved from Roxbury to Waltham and has made the City's name known all 'round the world. Waltham's reputation for precision manufactures has been continued during World War II by the Raytheon Mfg. Co. which turned out huge volumes of radar and radio equipment at its Waltham plant and at a factory in Newton, just barely across the City line, also by W. H. Nichols and Sons Co., as well as Waltham Watch Co., the B. C. Ames Co., Judson L. Thomson Co., Geo. W. Moore Co., Makalot Co., a host of sub-contractors like the Richard Bird Jewel Bearing Co., and other enterprises.

Waltham has grown steadily in population, keeping pace with the percentage expansion of urban places in Massachusetts of the same population class and of similar geographical relationship to Boston. Also the City has quietly absorbed successive groups of immigrants from Scandinavia, England, French Canada, Ireland and Italy, who have all become citizens and boosters of Waltham rather than of any one racial or national group, or any particular neighborhood within the community. This amalgamation and real absorption may have been greatly aided by the absence in Waltham of people from the eastern Mediterranean and central European regions who are quite numerous in Watertown, just to the east.

The second and third generations of many well-to-do Waltham families have moved away, frequently into Wellesley,

Weston, Wayland, Lincoln and Concord, thus depriving the City in some measure of one valuable stabilizing element of community leadership, but there is active City-wide participation in community affairs through a first-class local newspaper, a Chamber of Commerce, a local hospital, the banks, the churches and the federated community welfare organizations.

Waltham's total volume of manufacturing has fluctuated a good deal since World War I but its general trend has been roughly stable; new industries have slowly taken the place of most of the former textile business. However, the relative importance of manufacturing to the life of Waltham has begun to decline, in the writer's opinion.

Retail shopping has increased in importance, and Waltham is recognized as a regional shopping sub-center in the north-western sector of metropolitan Boston. The Massachusetts average retail sales per capita was more than 20% above the United States average both in 1929 and 1939, while in 1929 the Waltham average of retail sales per capita was 1% below the state figure and by 1939 had risen to more than 25% above.

Waltham's manufactures have undoubtedly helped stabilize the City and the early start in that direction has tended to keep the settled area confined between the two railroad lines, and south of the River toward the Newton line. Mostly medium price houses (say \$4000 - \$6000 in the

1930's) have been built in Waltham. Much of the land remaining unbuilt upon is either in steep slope or swamp or woodland, or else in very substantial size ownerships. Waltham lies just beyond the core of metropolitan Boston; eighteen towns in a triangle to the eastward are from two to ten times more densely populated than Waltham. In fact, most of them are virtually solidly built up, right to the Waltham City Line on the east and south. On the other sides of Waltham, Weston, Lincoln and Lexington are very open as yet, but the prevailing rents and the present large lot sizes required by their zoning ordinances will tend to put pressure on whatever Waltham lands are available for development.

The housing shortage after World War I may be said to have brought about the adoption of the existing Waltham zoning ordinance June 22, 1925. In 1923 a farm surrounding the whole southern half of Hardy Pond (in north central Waltham) was sold off in small lots, 1000 to 4000 sq. ft., ostensibly for summer cottages for people of low income. Actually, whoever could get hold of a big enough packing-box hauled it up there to live in the year 'round, without paved streets, water supply or sewerage.

The current housing shortage after War II again focusses attention on the remaining buildable lands of Waltham. The Massachusetts zoning enabling act was

revised in 1933 and since then has been amended at least five times. The Waltham zoning ordinance ought therefore to be re-drawn in accordance with the statutes, taking full advantage of their provisions. This would provide Waltham with a powerful aid to the promotion of desirable residential development within the City Limits. It could be done in such manner as to benefit the citizens and owners of existing buildings, to protect the developer, to help enhance the security of the City's bond issues for accompanying schools, fire and police stations, sewer lines, streets and other municipal improvements entailed by such development. The right kind of ordinance would also tend to assure the City continuing and proper volume of tax income from improved real estate throughout its reasonably foreseeable life.

Principal Planning Problems in Waltham Affecting This Draft of A Zoning Ordinance:

Dominating all individual problems is the situation of Waltham itself in relation to metropolitan Boston. The writer believes that the "manifest destiny" of Waltham in the immediate future is its transformation from an industrial and agricultural city, attempting to be as nearly politically and socially independent as possible, into a suburban unit of one of the great metropolitan clusters of the United States of America.

The principal individual problems looming in Waltham's future are listed below:

1) The likelihood that when Cambridge joins the Metropolitan Water Supply System, the land surrounding the Hobbs Brook Reservoir and Stony Brook Basin in Waltham will be released for more intensive uses of some sort; query, what sort should be chosen?

2) Same as (1) for Waltham's own Water Works Reservations on the bank of the Charles River at Roberts.

3) The effect on residential development and Waltham land use generally of the probable construction of a link of Route 128 as a major metropolitan circumferential freeway across Stony Brook Basin at some point and up the valley just west of Bear Hill, thence close to the eastern shore of the present Reservoir and straight on north into Lexington.

4) Likelihood that any effective and adequately large-scale highway improvement of some more direct (i.e., free-flowing) route between Watertown and Waltham should be extended westward to Route 128 if constructed as proposed above.

5) Effect of such Watertown - Waltham traffic facility on land use along the Charles River; need for some action to save remaining vacant lands and rehabilitate others so as to protect Waltham's "front door yard" appearance and

make it a welcome one to motorists, both in respect of lands within Waltham and those adjoining and opposite in Watertown and Newton.

6) Consequences for Waltham of a possible metropolitan rapid transit facility if constructed along the northern railroad line through Waltham North and Waltham Highlands to a terminus somewhere down in the swamp near the Weston Town Line, say at the bridge carrying Weston Street over the B & M RR.

7) Need for a park taking of enough land surrounding the Lyman Ponds, at least from Linden St. (the railroad fork) and Bacon St., or possibly all the way west to the rapid transit terminal yards, so as to preserve the attractiveness of Waltham's front-door yard, welcoming rapid transit passengers as potential shoppers and homeowners in Waltham.

8) Guidance of the seemingly inevitable metropolitan pressure for further residential development in Waltham; which districts first? how sewer? how assure right location of adequate school, playground and park facilities within the new neighborhoods? how protect and assure location of suitable neighborhood shopping areas?

9) Probability of geographical shift of existing major shopping centers in Waltham, caused by traffic and transit improvements mentioned, as well as by increasing residential development.

10) Need for immediate improvement of central Waltham's present east-west and north-south traffic flows, regardless of future traffic and transit developments or population increase^{by} migration from the metropolis to new neighborhoods in Waltham.

11) Desirability of re-development of the existing problem areas in Lakeview, Wellington Grove, and in "South-side", near the Watertown Branch Freight Railroad, as well as prevention of a potential problem housing area along "Angle-side" Rd., south of J. L. Thomson Co., and the sewerage of existing settled areas now on septic tanks.

12) The existence of 1.4 sq. miles of public and private institutional lands (some for recreation) in almost a solid block in Waltham's north-eastern quarter, mostly likely to remain in their present uses for indefinite years to come, as far as can be seen.

Justifications of Some of the Choices Made In Drafting This Ordinance:

The writer's feelings as to Waltham's "manifest destiny" led to the general choice to provide as flexibly as possible for future residential building while protecting existing properties. An attempt was made to channel the location and timing of new developments both with respect to the character of the land and the case of sewerage any new construction. Waltham has laid water on to every part of

the City and its water-supply can be assured as to potability, industrial suitability and quantity by joining the Metropolitan System. Existing municipal installations plus Hobbs Brook Basin would be amply adequate as standby for any sort of emergency need.

It was decided to attempt protection of Waltham's lands for future uses by creation of a "reservoir" of open uses of 5 acre lots in an Agricultural and Park District, including therein all the larger tracts of institutional lands. Examination of the atlas showed that less than one-tenth of the ownerships in the area thus zoned were smaller than five acres; indeed, a lot size of 10 acres would have embraced two-thirds of the ownerships, but it was felt this proportion was not high enough to seem reasonable in any private discussion with owners or in a public hearing.

The residence AAA districts were established on two bases. Piety Corner has long been the "best" neighborhood in Waltham. If any attempt were to be made to promote residence in Waltham by leading citizens or factory owners, it would logically be here. The ownerships in the neighborhood are still large, often in substantial family groups. The only direction still open to extension of this neighborhood was northwesterly up toward Totten's Pond, as the New Church Institute for Education blocks it off on the

east, and existing development to the south.

Somewhat similarly the Lyman family's holdings and the Waltham Field Station of Massachusetts State College were zoned AAA as they are adjoined on the north by large holdings of other owners, Robert Treat Paine Estate, Sears Estate and the Massachusetts Council of Girl Scouts (Cedar Hill). Another consideration here was the fact that if the "reservoir" of 5 acre lots were carried right down to the railroad, which acts as a barrier, when the need came for development of some of the land on the north side of the railroad, it seemed only too likely the 8000 foot Residence A zone would simply jump the barrier.

The Lyman Ponds land is among the most saleable land in all of Waltham and would be eagerly bid for if ever the rapid transit line were constructed. It is desirable that some steps should be taken to protect the Ponds. The writer has had to remind himself constantly that steps to put planning in action mostly require public purchase or a taking and that zoning is only a specialized tool for the effectuation of one aspect of community planning.

The northern ^{AAA} zone between Piety Corner and Lakeview was decided upon because it is opposite to and would look down on the southern one, extending Piety Corner neighborhood, also because of the steepness of the slopes of the hill backing up to Lakeview.

These AAA zones are regarded as being possibly a little less likely to be needed for development as soon as most of the AA and A zones.

Comparison of the map of proposed zoning with the sewer map will show that additional Residence AA and Residence A districts, yet not built-up, are zoned adjacent to existing sewer lines and existing built-up areas now zoned AA and A.

Lakeview is felt by many in Waltham to be a problem and a blot on the City. Not as many have recently looked at Lakeview carefully. The passage of twenty years has shown that most of the Lakeview lots are held by real owners, not speculators. There are frequent instances of lavish application of personal efforts by owners in improvement of properties. Water has been supplied and sewers are available, though no great number of Lakeview houses are yet connected. In the summer of 1946, the City of Waltham at last accepted and paved several of the minor neighborhood streets.

The pretty pond site, surrounded by wooded hills, is inviting for re-development. The City also compiled a list of tax-foreclosed properties last summer, of which numerous items are found to be in Lakeview, often on steep and wooded slopes or in the swamp bordering the pond on the west. The writer prepared 100 foot scale work sheets from the

atlas to show these properties; they are in 65 groups; each group of adjoining lots aggregates 8,000 sq. ft. or more, up to 52,000 odd feet in the largest group. Similar sheets were made up for Wellington Grove, on the north shore of Hardy Pond, where except for the shore front, the ownerships are much larger than in Lakeview. In addition to these 65 groups of tax-foreclosed lots, the atlas showed over 100 private ownerships in Lakeview, each composed of 8,000 sq. ft. or more. This seemed to demonstrate a real tendency of owners to increase the size of their holdings. The USGS base map, edition of 1943, shows 402 houses (dots) in Lakeview and 72 in Wellington Grove.

On the basis of the above facts and the writer's repeated personal examination of both sides of the Pond, it was felt reasonable to raise the zoned minimum lot size from 7,000 to 8,000 ft. in Lakeview and to 20,000 feet in Wellington Grove where less than one-third of the present ownerships are smaller than the zone minimum. The shore front of Wellington Grove was necessarily zoned to 8,000 foot lots.

To further encourage the enlargement of the individual ownerships around Hardy Pond, paragraph 14.4 was worked out as a reasonable and possibly legally tenable provision in the ordinance. Also this paragraph

was aimed at preventing the growth of an even less attractive settlement south of the B & M RR near Roberts Station where a sand-pit operator proposes to erect 200 structures, each of conventional old two-family design. Sand and gravel pits are no longer allowed in Waltham, but this chap has bought more than 10 acres of tax-title land (formerly the old Roberts estate) and it is understood the Waltham Board of Survey and Planning has approved his sub-division layout which establishes a street grade some 15 feet below the prevailing level of the sand and gravel land surface thereabouts.

Since 1944, the City has shown a willingness to help real estate developers in cases of swamp or excessive ledge. Projects estimated at from \$18,000 to \$25,000 each of special City expenditure have been proposed for three different locations to this writer's knowledge. It is the writer's opinion that the City would obtain a much greater return for its money by retaining its present Lakeview lots and investing any such sums in additional holdings to fill out solid blocks for development or redevelopment up there, putting in additional streets, sewers and water on desirable layouts such as could readily be devised by any good site-planner.

The hospitals in the north-east may become responsible for certain residential developments close at hand. The

standards of mental hospital and general hospital care are steadily rising, though slowly. Any real increase in numbers of attendants will require additional housing; present design tendencies may tend to favor garden apartments and some group houses rather than dormitories for nurses and attendants; this would fit in perfectly with hospital administrators' preference for married persons. A rise in standards of care is felt to be much more likely to require development of additional land than any foreseeable increase in the numbers of persons hospitalized on these sites in Waltham, although both might occur. In any case, it was not thought advisable to try to zone for such uncertainties.

The conversion privilege and construction of colony housing under permit from the Board of Appeals were made allowable in any residence district so as to provide the utmost flexibility. Prof. Bender points out that the residential construction begins by the developer looking around to find a piece of land at the "right" price, and not necessarily where the planner or zoner might think most appropriate. Hence a way was sought to meet this situation and to encourage developments of substantial size. It was concluded to be undesirable and undemocratic for the zoning ordinance to require that proposals for colony housing should be for at least some certain minimum

number of dwelling units, say 50 or 75. Politics, economics and competition -- say freedom -- would take care of that much better.

The colony housing standards were determined in part by reference to the lot area requirements in the zones proposed, partly by copying the Fitchburg Ordinance. It didn't seem fair to allow any residential use more crowded than twice the densest area and coverage allowed for single houses in certain districts.

A proposal was contemplated that the City be required to provide park land within 1/4 mile of any housing colony in the ratio of at least 10% where 5,000 sq. ft. lot area per family was requested of the developer, and 15% where the developer gives only 3,000 ft. lot area per dwelling unit. This was dropped, however, as being not clearly any part of a zoning ordinance.

The acreages of the districts as now zoned and as proposed to be zoned are stated on each map. The "reservoir" for future unpredictable needs was made as large as seemed possible and workable in the Agricultural and Park District. Much of it came from the former loose Residence B zone.

In the proposed AAA and AA zones there could be housed 6,560 persons, at 4 per family on the minimum single lot allowable, deducting 25% of gross area zoned

for streets in each case, also 2% for parks and school sites in AAA zones and 3% in AA zones.

During the past hundred years, Waltham's total population increase each decade has been: --

1850	1,960	1900	4,774
1860	1,933	1910	4,353
1870	2,668	1920	3,081
1880	2,647	1930	8,332
1890	6,995	1940	773

1945 3,557

Thus it seems likely that the acreage zoned AAA and AA would more than suffice to accommodate any housing increase in that bracket of the market during the next ten years. Colony housing by permit in these or any other residence district should be able to take care of everyone else who can afford any new housing at all, these days. Conversion privileges will help the others as much as zoning can. By 1955 this proposed ordinance ought to be scrutinized and amended or again revised.

The specifications and boundaries of the existing Residence A, B & C districts were carried over almost unchanged to the proposed new ordinance. It was felt that this would aid acceptance of the proposed ordinance, that it would accord better with existing uses and lot sizes, and that no clear advantage would be gained by the minor changes that occurred to the writer while studying these districts. For a time it was debated whether to call B a single residence district of 8,000 foot lots, embracing parts of the former A and B districts so as to permit a

12,000 foot A zone; 20,000 AA zone and 40,000 foot AAA zone; also to allow for revision and division of the existing C zone into two parts of differing heights, in an attempt to anticipate the probable location of apartment houses which may be needed when and if the rapid transit line is built through Waltham, but these considerations seemed unwise.

As to neighborhood and central shopping districts, many estimators allow from 2 to 10 front feet of store per 100 potential shoppers. Existing Business A & B zones in Waltham total some 58,000 front feet. Allowing 10 feet per 100 persons in Waltham plus $2\frac{1}{2}$ feet for outsiders who come to Waltham to shop (because Waltham's percapita retail sales in 1939 were 25% above the State average), this would accommodate 464,000. Waltham's 1945 population was 43,577; Newton 77,257; Watertown 37,438; Belmont 28,866; Lexington 14,452; Lincoln 1,998 to and Weston 4,473; totalling 208,071. Waltham stores and businesses at present occupy only some 12,000 front feet. The Business A & B zones proposed total 26,750 front feet, sufficient for 214,000 potential shoppers at $12\frac{1}{2}$ front feet per 100 persons.

Lakeview is grossly over-zoned for shopping; by these standards its 1608 people would be entitled to only one-fifth of the front footage the zoning revision proposes, or one thirty-fourth of the present business zone in Lakeview.

Specific zoning for possible future neighborhood shopping areas was debated and dropped. Predictions are so uncertain, and it is easy to change a zone at the time need is felt and

thus be sure of making right provision for a new neighborhood where it is actually developing. This decision was departed from in two instances; one near the hospitals where an existing neighborhood store just at the top of a steep slope and with little opportunity for an extended parking area off-street seemed an undesirable nucleus for future growth, the other south of the B & M RR at Roberts Station where vacant land nearer the center of a growing new neighborhood seemed a more suitable location than the existing stores close to the station.

Approximately 143 acres in Waltham are now actually used by factories. The writer proposes zoning some 310 acres for industry under permit from the Board of Appeals, as against the 602 acres at present thus zoned. The best argument for the reduction is that in the 113 years from the start of industry in Waltham to the adoption of the existing ordinance it had reached a certain size and during the ensuing twenty years, industry has not expanded much more. It seems that an allowance of 100% of the present industrial uses would be sufficient for future expansion of manufacturing in Waltham. The industrial growth of the United States bids fair to be much more in the southern, south-western and north-western states hereafter than in New England.