

## **Minutes of the Planning Board Meeting of February 25, 2020**

Pursuant to a notice filed with the Town Clerk, the Planning Board met at 7:00 p.m. on February 25, 2020 in the Hearing Room at the Town House, 22 Monument Square, Concord, MA.

Present:

Matt Johnson  
Nathan Bosdet  
Kristen Ferguson  
Burton Flint  
Kate McEneaney  
Haley Orvedal

Absent: Allen Sayegh

Town staff present:

Elizabeth Hughes, Town Planner

The Chair opened the meeting at 7:00 p.m. and stated that the meeting was being video recorded by Minuteman Media Network.

Mr. Johnson opened the Planning Board public hearing for the 2020 Annual Town Meeting. He commented that the Board's duty is to review the Zoning Warrant Articles and have the public ask questions to ensure the Board is bringing forth the best possible Bylaw Amendment. Mr. Johnson stated that the purpose of the public hearing was not to debate the merits of the Articles; that will happen on the floor of Town Meeting.

**Article 32 Zoning Bylaw Amendment – Additional Dwelling Unit – amend Zoning Bylaw Section 4.2.2.2.**

Mr. Flint gave a presentation on what is an accessory dwelling unit, the reasons why the Board decided to develop the bylaw amendment and the changes to the accessory dwelling unit bylaw proposed under the warrant article.

Mr. Flint asked for public comment.

Jack Madigan, 215 Prairie St., asked what minimum lot sizes other communities use, referring to the chart on the last presentation slide. Mr. Flint replied that he did not know if those towns allow accessory dwelling units town-wide or restrict it to certain zoning districts. He explained the currently Section 4.2.2 stipulates that the area of the lot on which the single-family dwelling and additional dwelling unit is located shall not be less than 10,000 s.f. in size and that the bylaw amendment proposes to change that to not less than the required minimum lot size for the applicable zoning district town-wide.

Frank Feeley, 347 Lexington Rd., asked what is to prevent the creation of short-term rentals that do not provide food (i.e. not bed and breakfast establishments) if this amendment passes. He commented that the potential concerns him. Mr. Flint stated that the Zoning Bylaw currently does not allow short-term rentals of accessory dwelling units.

Elissa Brown, 158 Laurel St., questioned the setbacks for accessory structures like sheds, which can be as close as 5 feet to the property line. Mr. Johnson stated that if a property owner wished to add an accessory dwelling to an existing structure that did not meet the required setbacks for a dwelling, then they would need a special permit.

Michelle Pflumm, 324 Sudbury Rd., commented that the trend is that smaller homes are often replaced by larger homes and asked for clarification on how the impact to the neighborhood would be assessed. Mr. Flint replied that there would be no assessment if the unit were 750 s.f. or less because that would be allowed by-right, but anything over 750 .f. and up to 1,000 s.f. would require a special permit from the Zoning Board of Appeals.

Ms. Pflumm asked why this amendment was an important priority now. Mr. Flint noted that this was a direct goal in the Long Range Plan to create these alternative housing options.

With no further questions, the Chair moved to the next Warrant Article.

**Article 33 Zoning Bylaw Amendment – Two-family Dwelling Unit**– amend Section 4.2.2.1 to add a new paragraph to allow a two-family dwelling by special permit in the Residence C Zoning District.

Mr. Bosdet gave a presentation on what is a two-family dwelling unit, the reasons why the Board decided to develop the bylaw amendment and the changes to the two-family dwelling bylaw proposed under the warrant article.

Mr. Bosdet asked for public comment.

Brian Foulds, 33 Riverdale Rd, questioned whether an additional driveway would be allowed, creating additional pavement on a lot. Mr. Bosdet noted that a two-family would be by special permit and any additional driveways would be discussed by the Zoning Board of Appeals during the public hearing process.

Ruth Lauer, Keyes Rd. questioned why this bylaw would not be creating more teardowns in the Residence C district. Mr. Bosdet reiterated the intent of the Bylaw. Mr. Johnson said that he thought that the biggest challenge will be getting developers to choose the option to build a two-family instead of a large single family dwelling since the overall profit for a two-family may be less.

Ms. Lauer suggested that it would be beneficial to have more photos and diagrams in the presentation of this article at Town Meeting.

Michelle Pflumm, 324 Sudbury Rd., had concerns with the potential of smaller historic homes being torn down and larger two-families being built. She asked, if the Residence C district were to be expanded, would two-families now be allowed. Mr. Johnson explained that it is unlikely that it would be proposed (in the future) to expand Residence C Zoning District since the lots have already been laid out. He explained that the article is proposed only to the Residence C district because of the smaller lot sizes will limit the maximum size of a two-family home.

With no further questions, the Chair moved to the next Warrant Article.

### **Article 34 Zoning Bylaw Amendment – Planned Residential Development & Table I Principal Use Regulations - amend**

Mr. Johnson gave a presentation on the history of the PRD bylaw, the reasons why the Board decided to develop the bylaw amendment and the changes to the PRD bylaw proposed under the warrant article.

Mr. Johnson asked for public comment.

Frank Feeley, 347 Lexington Rd, asked why 2,500 s.f. was selected for the size of a dwelling. He wondered why a smaller maximum square footage is not proposed.

Tanya Gailus, 62 Prescott Rd., questioned the change in the permit granting authority from the Zoning Board of Appeals to the Planning Board and reducing the 90-day time period for public comment. The Town Planner clarified that the State statute for special permits requires that when a special permit application is submitted, the special permit granting authority has 65 days to open the public hearing, and once the public hearing is open, it can remain open for as long as the permit granting authority deems necessary; it could be two months, 18 months; there is no time limit. The 90-day time period is the time limit the special permit granting authority has to file the decision with the Town Clerk once the public hearing is closed. She added that these time limits would not change whether the special permit granting authority is the ZBA or the Planning Board.

Ellen Quackenbush, 206 Prairie St., commented that there a real need to create workforce housing and asked the Board to consider that.

Ed Tiedemann, 656 Barrett's Mill Rd., questioned the removal of the Wetland Conservancy District from the Bylaw. Mr. Johnson clarified that the Bylaw amendment was not removing the Wetland Conservancy District, but tightening the wetland requirement to include all wetlands; no matter the definition.

Diane Proctor, 57 Sudbury Rd., asked when it would take effect. Mr. Johnson replied it would take effect once the Attorney General approved it.

Mark Gailus, 62 Prescott Rd., questioned why the change to the Bylaw and the special permit granting authority was in a single warrant article and not two separate warrant articles. Mr.

Johnson clarified the crossover was due to the Tree Preservation Bylaw relative to the special permit process.

Elissa Brown 58 Laurel St. pointed out that amendment proposed under Section 10.2.11 says, “the proposal for the built environment should reflect thoughtful consideration of a broad range of sustainability goals.” She suggested that the requirement should be stronger and have “more teeth” to require that developers do more than consider the goals.

Paul Winkler, 1414 Main St., asked if the Board thought these changes would help protect the Town from less desirable PRDs. Mr. Johnson commented on Ms. Orvedal’s research on other community PRD bylaws and that help inform the changes to the open space and the green building concepts. Mr. Johnson pointed out that the changes in the 1990’s were so onerous that the Bylaw was never used.

Mr. Winkler asked whether there were any provision that did not get included. Ms. Ferguson and Mr. Johnson explained that the Board deliberately chose language with the intent to make the PRD an appealing alternative (to a standard subdivision) while ensuring that what is constructed in a PRD is worth having.

Dan Gainsboro, 899 Lowell Rd., asked how the ZBA felt about this shift in the special permit granting authority. Mr. Johnson replied that the Planning Board had a joint meeting with the Zoning Board of Appeals where this proposal was discussed. Ms. Orvedal noted that in other communities they have the Planning Board as the special permit granting authority.

Stephen Carr, 308 Musterfield Rd., questioned the density bonus of 2,500 s.f. and thought 2,500 s.f. may be too large and asked about square footage calculations. Mr. Johnson provided the current definition of gross floor area in the Zoning Bylaw. Mr. Carr asked about the density bonus criteria proposed under Section 10.2.3.6 (b). He wondered could a density bonus be earned if no garage was proposed instead of a one-car garage.

Joseph Stein, 21 Thoreau St., questioned why the Board did not choose 40% open space. Ms. McEaney explained that the Board tried to be as aggressive as possible in the open space percentage requirement yet reasonable enough to not discourage use of the PRD by developers.

Tanya Gailus, 62 Prescott Rd., questioned whether the open space percentage could be increased at Town Meeting. Mr. Johnson replied that tightening restrictions would not be within the scope of the article.

With no further questions, the Chair moved to the next Warrant Article.

**Article 35 Zoning Bylaw Amendment – Hammerhead Lot** - amend Sections 6.3.2 and 6.3.2.2 to change the permit granting authority for a Hammerhead Lot special permit from the Zoning Board of Appeals to the Planning Board.

Ms. McEneaney gave a presentation on what is a hammerhead lot, the reasons why the Board decided to develop the bylaw amendment and the changes to the hammerhead lot bylaw proposed under the warrant article.

Ms. McEneaney asked for public comment. There was none.

With no further questions, the Chair moved to the next Warrant Article.

**Article 36 Zoning Bylaw Amendment – Relief from Parking Requirements** – amend Section 7.7.2.12 to add six criteria to consider when granting relief from parking requirements.

Ms. Ferguson gave a presentation on the reasons why the Board decided to develop the bylaw amendment and the changes to the relief from parking bylaw proposed under the warrant article.

Ms. Ferguson asked for public comment.

Ruth Lauer, Keyes Rd., asked what industry standards are referred to in the second slide of the presentation. Mr. Johnson explained that the industry standards are derived from transportation industry publications that look at standards for the creation of parking. Ms. Lauer asked if a local study was used. Ms. Ferguson explained that the standards that are used could be extrapolated to the local level.

Ms. Lauer questioned how many spaces are left to be utilized if relief from parking has already been granted. Ms. Ferguson clarified how the Zoning Bylaw calculates the requirements for parking. Mr. Johnson added clarification on shared parking and off-site employee parking options and said that applications are a case-by-case process. Ms. Ferguson added that this is where the applicant will now be required to provide the factual information.

Ned Perry, 362 Bedford St., questioned whether the criteria were meaningful to the Planning Board and the Zoning Board of Appeals and whether they will be applied seriously. Mr. Johnson noted that in the four years since the Planning Board have been using the criteria, there has been a more formal process in the evaluation of requests for relief and has ended up in additional transportation options being included in projects.

Ed Tiedemann, 656 Barrett's Mill Rd., suggested adding the words "generally accepted" before the words "parking studies" in criteria (a) under Section 7.7.2.12, so that a developer cannot cherry-pick a parking study that is most favorable to their application.

Henry Dane, 58 Everett St, believes that there needs to more areas for parking, not more burdensome and stringent requirements regarding the granting of relief from parking requirements.

Steve Carr, 308 Musterfield Rd., agreed with Mr. Dane's point. Mr. Carr noted that the language in Section 7.7.2.12 of the proposed bylaw amendment does not require an applicant to provide information about the factors under consideration in that section. Mr. Johnson explained that it is not intended that an Applicant provide information for each of the listed criteria, however they

may choose to do so, but the criteria may not be relevant in every case. Mr. Carr suggested that then the words, “if applicable” should be added to that section for clarity.

With no further questions, the Chair moved to the next Warrant Article.

**Article 37 Zoning Bylaw Amendment – Thoreau Depot Business & Residence C Zoning District Boundary**

Ms. Ferguson gave a presentation on the reasons why the Board decided to develop the bylaw amendment and the changes to the Thoreau Business District boundary proposed under the warrant article.

Ms. Ferguson asked for public comment.

Michelle Pflumm, 324 Sudbury Rd., questioned whether cars would just go around the site looking for parking and the issue with the delivery trucks parking on Thoreau St. Mr. Johnson clarified this article is only to move the boundary so that such a proposal could come forward for a public hearing.

Karen Silver, 164 Thoreau St., questioned what would keep the property owner of the residential property from having the Thoreau Business District Boundary extended even further so that the residential use could become a commercial use. Mr. Johnson replied that there would have to be a Town Meeting vote for that. Ms. Ferguson explained that the intent of Article 37 (and the proposal to move the Zoning District boundary) is to shore up the boundary lines with property lines in the least impactful way so that the Starbuck property owner can utilize an easement and change the traffic pattern for the parking lot there. Ms. Silver spoke of concerns about negative impacts to residential abutters from moving a business-zoned district closer to a residential district.

Jack Madigan, 215 Prairie St., asked for clarification on the proposed zoning district boundary lines. Ms. Ferguson clarified the proposed zoning district boundary change and the existing property lines.

With no further questions, the Chair moved to the next Warrant Article.

**Article 38 Zoning Bylaw Amendment – Fairs, Bazaars, Antique Shows, Suppers, and Dances**

Ms. Orvedal gave a presentation on the reasons why the Board decided to develop the bylaw amendment and the changes to the bylaw proposed under the warrant article.

Ms. Orvedal asked for public comment.

Ed Tiedemann, 656 Barrett’s Mill Rd, asked for clarification on the distinction between a philanthropic organization and an educational organization. Mr. Johnson explained that the intent of the proposed bylaw.

With no further questions, the Chair moved to the next Warrant Article.

### **Article 39 Zoning Bylaw Amendment – Prohibited Uses**

Ms. McEneaney gave a presentation on the reasons why the Board decided to develop the bylaw amendment and the changes to the prohibited uses bylaw proposed under the warrant article.

Ms. McEneaney asked for public comment.

Jack Madigan, 215 Prairie St., questioned whether the registration of the vehicle could be within the year since some people with seasonal trailers do not re-register them until after the winter. Mr. Johnson commented that the goal is to allow people to keep their trailer that they are intending to use, and if further clarification is needed down the road, then it could be addressed if there was an issue.

Tanya Gailus, 62 Prescott Rd., questioned why a property owner can't decide to sleep in their trailer or car on their own property. Mr. Johnson noted that it was not allowed under the Zoning Bylaw.

Stephen Crane, Concord Town Manager thanked the Board for all of the time, thought and effort they have put into all of the proposed warrant articles. He commended the Board for their creative approach to solving difficult problems.

With no further questions, the Chair moved to the next Warrant Article.

### **Article 41 Zoning Bylaw Amendment (By Petition) – On-site Community Notice Sign of PRD Application**

Mark Gailus, 62 Prescott Rd. gave a presentation on the reasons for the proposed bylaw amendment and the changes to the PRD bylaw proposed under the warrant article.

Mr. Johnson asked if there were any implications to the Sign Bylaw. Mr. Gailus replied that Article 42 concerns the Sign Bylaw. Mr. Johnson asked what would be the effect if Article 41 passes but Article 42 does not. Mr. Gailus replied that that would create a problem, but not so if Article 42 passes but Article 41 does not.

Mr. Bosdet asked if there was any size requirement for the sign and the size of the text. Mr. Gailus replied that there was no size requirement, but that the text was required to be in a manner legally visible from the nearest Public Right of Way.

Ellen Quackenbush, 206 Prairie St., spoke in support of article.

Ruth Lauer, Keyes Rd. questioned whether the sign size should be a standard Town orange placard sign, like a building permit so people notice it. She also asked if the standard 300 feet notification to abutters was going to remain. Mr. Gailus clarified that the proposed article will

not change the noticing requirement, and the article does not over specify the design of the sign to allow the Board to decide if the proposed sign was sufficient.

Ms. Lauer questioned why the requirement for a sign was just for PRD applications. Mr. Gailus noted that similar to some Planning Board articles, you have to start somewhere. He also thought that it was appropriate for PRDs, as compared to a standard subdivision, because a PRD allows greater density.

With no further questions, the Chair moved to the next Warrant Article.

#### **Article 42 Sign Bylaw Amendment (By Petition) – PRD Site Signs**

Mark Gailus, 62 Prescott Rd., gave a presentation on the reasons for the bylaw amendment and the changes to the sign bylaw proposed under the warrant article.

Mr. Johnson asked the Board or the public. There was none.

With no further questions, the Chair moved to the next Warrant Article.

#### **Article 43 Zoning Bylaw Amendment (By Petition) – One-year moratorium on Section 10 PRDs**

Jack Madigan, 215 Prairie St., gave a presentation on the reasons for the proposed PRD moratorium.

Mr. Johnson asked if the Board or the public had any questions. Other Board members did not.

Mr. Johnson asked where, in the Envision Concord Plan, Mr. Madigan found specific language as the basis for this moratorium. Mr. Madigan stated the Plan was inspirational in that the Town should be developing workforce housing, which the current PRD Bylaw does not create. Mr. Johnson noted that he was not able to find such language and recommended that Mr. Madigan's presentation tie to specific recommendations in the Plan.

Ellen Quackenbush, 206 Prairie St., commented that she believes there is a gap in the vision in the Long Range Plan and the need for further amendments to the PRD.

Ruth Lauer, Keyes Rd, asked if the Petitioner was planning on there being a new committee to do the work of developing a new PRD bylaw and what would be the new metrics. Mr. Madigan thought that a PRD bylaw would focus on workforce housing that included green building design that reaches the Town's goals sooner. He would propose there be a new subcommittee with members from various existing boards and committees to develop the new PRD bylaw.

Ms. McEaney commented that the site criteria in Warrant Article 34 intentionally do not mention specific goals so that the criteria could last over time.

Mr. Johnson added that the Town cannot amend a Zoning Bylaw to conflict with the State's building codes. He mentioned the quandary that the Board wants to incent developers to go with Planned Residential Developments, but if PRD criteria is too onerous then developers are more likely to go with the a standard subdivision where there is less discretion than there is with a PRD special permit.

Tanya Gailus, 62 Prescott Rd., raised a concern that if there is a moratorium on PRDs then developers may just build more subdivisions.

With no further questions, the Chair closed the public hearing and continued the Board's regular agenda after a short three-minute break.

**Approval Not Required Plan #20-2, Assabet Nominee Trust, 2194 Main Street, Parcel 2326-2**

Ms. Hughes gave an overview of the ANR plan and referred to her February 25<sup>th</sup> Agenda Memo. Mr. Flint moved to endorse the Plan for Assabet Nominee Trust by Thompson-Liston Associates, Inc. dated February 25, 2020 as Approval Not Required because the division of the tract of land shown on the plan is not a "subdivision" because Lot 1 and Lot 2 have the required area and frontage for the Residence B Zoning District as required by the Concord Zoning Bylaw on an adequate public way (Main Street) and to authorize the Chair, Clerk or Town Planner to endorse the Plan. Ms. Ferguson seconded with all voting in favor.

**Approval Not Required Plan #20-3, South Bridge Boathouse/Estate of S. Rohan, 496 & 502 Main St. Parcel 3952-1**

Ms. Hughes gave an overview of the ANR plan and referred to her February 25<sup>th</sup> Agenda Memo, noting that she was recommending that a note be added to the Plan stating that Parcel A was Not a Building Lot.

The Board discussed the Zoning Bylaw requirements for the Limited Business District #5 and the lack of any minimum area or frontage requirement. Ms. McEaney asked if further development of the lot was possible. Ms. Hughes commented that it was not because the entire property is within the 100-year floodplain and wetlands buffer.

Mr. Flint moved to endorse the Plan for South Bridge Boat House by G.C. Wilson Company dated February 2020 as Approval Not Required because the division of the tract of land shown on the Plan is not a "subdivision" because Lot 1 and Lot 2 have the required area and frontage as required by the Concord Zoning Bylaw on an adequate public way (Main Street) and include a note that Parcel A is labeled as Not A Building Lot and to authorize the Chair, Clerk or Town Planner to endorse the Plan. Mr. Bosdet seconded the motion with all voting in favor.

**Approval Not Required Plan #20-4, Symes Development & Permitting, LLC, 10B Highland Street, 1440, 1450, 1468 Main Street, Parcels 2407, 2408, 2409, 2423**

Ms. Hughes gave an overview of the ANR plan and referred to her February 25th Agenda Memo.

The Board briefly discussed the impact of this ANR on the Planned Residential Development application for this site currently before the Zoning Board of Appeals. The Town Planner informed the Board that the PRD application was not germane to the ANR process.

Ms. McEneaney asked whether the two Parcels shown on the Plan could be developed. Ms. Hughes stated that they were labeled Not a Building Lot because they did not have sufficient frontage so a single-family dwelling could not be built; however, the developer could in the future submit a subdivision application since only 50 feet of frontage is required for the laying out of a new road right-of-way.

Ms. McEneaney moved to endorse the Plan for Faye Erhard Hayes by Williams & Sparages dated November 25, 2019 as Approval Not Required because the division of the tract of land shown on the plan is not a “subdivision” because all of the lots have the required area and frontage for the Residence C Zoning District as required by the Concord Zoning Bylaw on an adequate public way (Main Street and Highland Street) and Parcel G and Parcel H are labeled as Not A Separate Building Lot and to authorize the Chair, Clerk or Town Planner to endorse the Plan. Ms. Orvedal seconded with four members voting in favor (Ms. McEneaney, Ms. Orvedal, Mr. Johnson & Ms. Ferguson) and two abstentions (Mr. Flint & Mr. Bosdet).

With no further business, the Chair adjourned the meeting at 9:45 p.m.

List of documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA:

- Town Planner’s agenda memorandum
- 2020 Annual Town Meeting Warrant Zoning Bylaw and Petition Articles Power Point Presentations
- Approval Not Required Plan #20-2
- Approval Not Required Plan #20-3
- Approval Not Required Plan #20-4

Respectfully submitted,

Burton Flint, Clerk, Planning Board

Minutes approved on: 3/10/2020