

PLANNING BOARD

DATE: March 26, 2020

TIME: 6:00 P.M.

PLACE: Large Meeting Room

FOR: Regular Meeting/Continued Public Hearing

PRESENT: Brandee Nelson, Chair

Chris Rembold, Assistant Town Manager/Director of Community Planning & Development

PRESENT VIA PHONE: Malcolm Fick, Jonathan Hankin; Jeremy Higa, Pedro Pachano

Due to the COVID-19 Pandemic, Governor Baker suspended parts of the Open Meeting Law requirements to allow remote access for board members. Ms. Nelson was present for the meeting at the Town Hall along with Mr. Rembold and Secretary Kimberly Shaw. A representative of CTSB was also present, broadcasting the meeting live and recording the meeting for future broadcasts. The other members participated remotely via the phone. Members of the public were also provided remote access via phone.

Ms. Nelson called the meeting to order at 6:00 P.M. Ms. Nelson called a roll call for the Planning Board members. Mr. Hankin, present; Mr. Fick, present; Mr. Pachano, present; Mr. Higa, present.

CONTINUED PUBLIC HEARING:

Ms. Nelson said the Board would begin with the continued public hearing from March 12, 2020 for the zoning articles that will be presented at the Annual Town Meeting.

Mr. Hankin made a motion to reopen the public hearing, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

The public hearing was reopened at 6:03 P.M.

Mr. Rembold read two written comments into the record. The first letter, dated March 25, 2020, was submitted by Tom Doyle. Mr. Doyle was present on the phone as well.

Mr. Rembold read the letter that stated opposition to the Citizen's Petitions regarding 8.4 and the petition regarding the amendment to the zoning map changing the MXD zone.

Mr. Rembold read a second letter from Eileen Mooney dated March 19, 2020. Mrs. Mooney stated opposition to the Planning Board amendment allowing for additional height for ADUs.

She said she understands that the intent is to allow apartments over garages but there is nothing to show what currently exists and the impacts the change would have on neighborhoods. Mrs. Mooney also stated opposition to the Planning Board amendment that would allow farm housing.

Ms. Nelson invited those citizens on the phone the opportunity to comment on any of the articles. There were no comments from Mrs. Mooney, Mr. Doyle, Michele Loubert or Douglas Stephenson.

Mr. Rembold said that was all of the callers except the Planning Board members.

There were no comments from the Planning Board members.

Ms. Nelson said if there are no additional comments she would entertain a motion to close the public hearing.

Mr. Hankin made a motion to close the public hearing, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

The public hearing was closed at 6:14 P.M.

Ms. Nelson said the Board will deliberate on the zoning items. She said at the last meeting there were comments from the public and the Planning Board. The Board will now deliberate and vote on the articles.

CITIZEN'S PETITIONS:

Ms. Nelson took the articles in order as listed on the agenda.

The first Citizen's Petition is proposed to regulate the locations and physical requirements of marijuana establishments.

Ms. Nelson said during the original discussions the Board worked to create the existing language that was approved at the ATM. This proposal reverses the existing language.

Ms. Rembold said yes. He said the proposal adds language that would include a 500 foot buffer from schools and areas where children congregate. The existing language has a 200 foot buffer as approved at the ATM. The proposal is more extensive than what exists. It would prohibit marijuana uses in residential zones and it imposes physical restrictions on noise, light and odor.

Mr. Rembold clarified to the Board that they may not change the petition. What has been petitioned will be printed in the warrant. He said suggestions can be made. Amendments and recommendations can be made at the ATM.

Mr. Hankin said the change from 200 feet to 500 feet would rule out marijuana establishments in the downtown area. He said three of the five proposed establishments are proposed to be located in the downtown. He said the proposal would have potential adverse impacts on applicants who have spent thousands of dollars to get permits.

Mr. Hankin said farm land is where marijuana should be grown. A growing facility is required to get a special permit. He said the part of the petition that would restrict outdoor cultivation within 200 feet of a property line. He said we don't impose this restriction on anything else. He said this is not how we want to write zoning as it is overly restrictive.

Mr. Fick said there is language that would eliminate any marijuana establishments in the downtown. He said we can eliminate the use by a vote but not through zoning. He said the proposal is not consistent with State law. He said the physical constraints should apply to all uses not just zero in on marijuana.

Mr. Fick said when considering the part of the proposal that addresses a hazardous use it should be considered that liquor stores have more flammable material than what we have seen proposed for a marijuana use. He said the proposal is anti-marijuana. He said he is opposed to the article.

Mr. Pachano said he agrees with what Mr. Hankin and Mr. Fick said. He said the language of the article is too loose and open to interpretation. He said he would recommend a negative recommendation.

Mr. Higa said he agrees with a lot of what has been said. He said he is interested in more restrictions on marijuana but this isn't the way to go about it. He said he agrees with the other Board members.

Ms. Nelson said she concurs with most of what the Board said. She said the interpretation is too broad. She said the Board went through a deliberation process when the original zoning was developed. She said it was passed at the ATM at the time. She said she would not recommend the proposal.

There were no additional comments. Mr. Hankin made a motion to not recommend the article to Town Meeting, Mr. Fick seconded.

Mr. Stephenson spoke up as the Board was voting. Ms. Nelson said the public hearing was closed. Mr. Stephenson said he did not have an opportunity to comment and he did not hear it said that the public hearing was closed.

Ms. Nelson said she asked for any public comment prior to the public hearing being closed and the vote was taken.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said the next Citizen's Petition is proposed to amend the Table of Use Regulations to allow marijuana establishments by special permit in the I-2 zone.

Mr. Hankin said the history of the I-2 zone had it established because residential uses were not allowed in the I zone. Areas that had some industrial uses and residential uses were rezoned I-2. He added that the Gilmore family was the first applicant in Town for marijuana use at their Gas House Lane building. He said when they applied for the marijuana use the Planning Board was not opposed to it. He said the area is close to a residential zone but it is also separated by the railroad tracks.

Mr. Fick said he is in favor of the change. He said the use subject to a special permit provides the necessary protection.

Mr. Pachano said he is in favor of the change with the requirement for a special permit.

Mr. Higa said this is for a specific application. He said he is not sure of the number of residences in the I-2 zone. He said some of the I-2 zone abuts the B-3 zone and residences. He said he is not so comfortable with the change.

Ms. Nelson said the I-2 zone is principally in the down town area along the railroad tracks. She said she understands Mr. Higa's concerns about the proximity to residences. She asked if requiring a special permit mitigates his concerns.

Mr. Higa said yes but not enough to recommend in favor.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Fick seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, nay; Ms. Nelson, aye

Ms. Nelson said the next Citizen's Petition proposes to amend Section 8.4 to regulate residential density in mixed use developments. She said the proposal is different than the Planning Board article that proposes to amend 8.4.

Ms. Nelson said she doesn't support this article. She said the Planning Board took up the article. She said it would have been better for the citizens to come to the Board with their proposal. She said this proposal goes against the work the Planning Board has done to strike a balance in 8.4.

Mr. Hankin said he agreed with Ms. Nelson.

Mr. Fick said he is in favor of the proposal. He asked why the Board didn't renew the 2500 square foot requirement that passed at last year's ATM.

Mr. Pachano said the density recommendation proposed last year would create in most areas the kind of housing we don't want. That density requirement would limit creativity and the possibility of what can be built.

Mr. Fick said do we want 10 units on a quarter of an acre of land.

Mr. Pachano said many places allow that kind of density. It allows for affordable housing. The proposed project for Manville Street would be reduced by 60% making the project not affordable.

Mr. Fick said he didn't think that project was intended to be affordable.

Mr. Pachano said it isn't but it is intended to provide work force housing. Reducing the density would make the project more expensive to build.

Mr. Fick said that project was not for affordable housing.

Mr. Pachano said "affordable" is a tricky term. He said it is intended to be work force housing for nurses and teachers. He said affordable would mean that the housing would be priced at a rent that working people could afford.

Ms. Nelson said she appreciated the differing points of view. She said the petition makes us look at what would be allowed. She said the change would apply to many zones. The Board needs to think about this broadly.

Mr. Fick said there are big changes, not incremental changes.

Ms. Nelson said other zoning provisions would apply.

Mr. Hankin said the R-3 and R-1-B zoning restrictions are less than 2500 square feet per unit. The number is arbitrary.

Mr. Higa said in general if we zone for what we want we won't get it. He said this is not so specific that we can't get any of what we want. If the limit were greater it would push the housing into a luxury category, not workforce or affordable.

Mr. Hankin made a motion to send a negative recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, nay; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said the next Citizen's Petition proposes to amend the zoning map and Section 9.11 to rezone portions of the MXD zone to the R-3 zone. She said the MXD was created a few years ago through field walks in the zone and much work on the language. She said the goal was to eliminate the non-conformities in the South Main Street area and to allow for growth.

Mr. Rembold said the petitioner did not provide a zoning map to show how the proposed change would impact the area. He said the proposal would take the center of the MXD and change it to the R-3 zone. Portions of Maple Avenue, South Main Street, Pope Street, Mahaiwe Street and Manville Street would be impacted. Many of the uses in those area would become non-conforming although the petitioner suggested the uses would be grandfathered.

Mr. Rembold said there are 2 uses on Maple Avenue that would become non-conforming as well as 2 on Pope Street, 7 on Mahaiwe Street, 3 on Manville Street and 5 mixed use properties on the east side of South Main Street north of Olympian Meadows.

Mr. Hankin said the purpose of the amendment, asserted by the petitioner is that the MXD zone fails in its purpose. He said the Planning Board worked hard to accomplish the purpose of the zone. The petitioner's proposal is completely antithetical to what the Planning Board intended. He said the Board looked at what existed in the area to put the language together. He said the petitioner should see how the legal matter with the specific neighborhood he wants addressed works out instead of doing something as radical as this proposed amendment.

Mr. Fick said he is opposed. He said the proposed project may be scary but it would be good for the Town.

Mr. Pachano said the proposal is against the purpose of the MXD. He said whole area is already a mix of uses on our Main Road. The MXD zone is a major commercial part of Town. To change the zoning to residential is antithetical. He said he is opposed to it.

Mr. Higa said he echoes the other Board members.

Mr. Pachano said it is important to communicate to the voters that the Town is not static. Change happens and we strive to put zoning in place to control the changes. That is what the MXD zoning does.

Mr. Hankin made a motion to send a negative recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said the Selectboard proposal would amend Section 7.18 to restrict the number of retail marijuana establishments to seven.

Mr. Rembold said there are currently 5 Host Community Agreements with the Town.

Ms. Nelson said the comments from the public questioned how the Selectboard decided on seven. She said the Selectboard decided on seven because there are seven package stores licensed in Town.

Mr. Rembold said the Selectboard needed some metric to go by so they used all alcoholic package stores. They also considered that there are 5 Host Community Agreements and there could be two more.

Ms. Nelson said the Selectboard's work came out of a non-binding vote at the 2019 ATM.

Ms. Nelson said she doesn't object to the proposal.

Mr. Hankin said the number is not unreasonable however, it is arbitrary to limit a use when we don't know what it is going to be like.

Mr. Fick said he doesn't like the proposal but he would support it.

Mr. Pachano had no comment.

Mr. Higa said he would support the proposal. He said the limit should have been set in the beginning.

Mr. Fick made a motion to send a positive recommendation to the ATM, Mr. Higa seconded. Roll call vote: Mr. Hankin, nay; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said the Board will now deliberate the Planning Board articles.

Mr. Rembold said the first article is an editorial amendment. He said the bylaws would change Board of Selectmen to Selectboard. It would also change to SPGA where individual boards are named within the body of sections of the bylaw. This change is intended to provide consistency in the bylaw.

Mr. Pachano said 10.4.1 specifies that the Selectboard is the SPGA unless another board is specifically designated.

Mr. Rembold said that is correct.

Mr. Pachano said the change would ask readers of the bylaw to go to another place to find out who the SPGA is.

Mr. Hankin said generally people would start with the Table of Use Regulations where the SPGA is stated.

Mr. Rembold said when someone isn't clear about what they are looking for they would contact Town Hall to help them figure it out. He said consistency is the only issue.

Ms. Nelson said she thought the change in the wording tightened up the language and made it clearer.

Mr. Fick said he would vote in favor of the amendment.

Mr. Hankin amended the language with:

Article 1:

Where individual Boards, acting as Special Permit Granting Authority as established by the Table of Uses, are named in the body of the text, change the Board name to SPGA for consistency and to facilitate any possible future zoning amendment.

Mr. Fick made a motion to accept Mr. Hankin's amendment to Article 1, Mr. Higa seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Hankin made a motion to send a positive recommendation to the ATM as amended, Mr. Higa seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 2 updates the Table of Use Regulations with uses in the downtown district.

There was no discussion of this article.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Fick seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 3 updates the setback and height regulations for accessory dwelling units. This article had a number of public comments. She said people have asked what having taller buildings closer to the setback means for the neighbors.

Mr. Hankin said when it was initially considered increasing the height to 25 feet, we talked about anything over 15 feet in height would have to conform to setback requirements. We could require a 25-foot structure to conform to the setback requirements.

Ms. Nelson said that could be a sensitive approach. She said we need to make it clear what has been allowed to this point.

Mr. Fick said he supports Mr. Hankin's recall of the discussion at the 2019 ATM. He said there were multiple speakers with concerns about tall buildings 10 feet from the property line. He said he agrees with the amendment.

Mr. Hankin suggested creating a special permit path.

Ms. Nelson said the proposal is consistent with the existing built fabric of the neighborhoods with garage or carriage barns that could accommodate an ADU.

Mr. Pachano said he had no comments.

Mr. Higa said the intent is for an ADU over garages or carriage barns. Could the ZBA issue special permits.

Mr. Rembold said the ZBA only deals with pre-existing situations. A special permit would require the SPGA to be designated as either the Selectboard or the Planning Board not the ZBA. He suggested the last line could be left in so the minimum setback requirement would remain.

Mr. Hankin added except as allowed by a special permit from the Planning Board.

Mr. Pachano said we need to consider getting the ADU language to pass. If having the Planning Board as the SPGA makes it fail we need not put that in.

Mr. Hankin said it would be consistent with another amendment.

Mr. Higa said he is also concerned about putting the article in jeopardy. We could not specify the SPGA and lump in with the other article.

Mr. Pachano agreed.

Mr. Hankin said it would have to be specified.

Mr. Rembold submitted for the Board's consideration that requiring a special permit is the bigger concern not who the SPGA would be. He suggested getting the amendment passed then consider the SPGA.

Mr. Fick asked if the special permit would allow the structure to be on the property line.

Mr. Hankin said it would allow the structure to be a minimum of 10 feet from the property line.

Mr. Fick said he likes the 10-foot minimum setback. He said it eliminates the ambiguity.

Mr. Hankin said maybe the special permit should be eliminated to get it passed.

Ms. Nelson said that is a good idea.

Mr. Pachano said preclude taller ADUs closer than 10 feet.

Mr. Hankin said it would go to the ZBA if within the setback.

Mr. Hankin made a motion to amend the language of article 3 to retain 3.2.2 (3) that a building exceeding 15 feet in height would conform with setback requirements, Mr. Pachano seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Fick seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 4 would amend the Table of Use Regulations to add ADUs .

Mr. Rembold said Row G in the Table of Use would add ADUs as a yes allowed in all zones consistent with the text.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Fick seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Rembold said Article 5 updates requirements in the ADU regulations 8.2.

Ms. Nelson said the updated language allows one ADU on a property, it eliminates the ownership requirement and it adds a farm dwelling component. Ms. Nelson said Mrs. Mooney is opposed to the farm dwelling component as stated in her letter that was read at the beginning of the meeting.

Ms. Nelson said there have been comments about abutter notifications for ADUs. She said this comment was taken into consideration last year and the requirement was added to the SPR application.

Mr. Rembold the intent of the farm housing is for farmers to provide housing for the farm employees.

Ms. Nelson suggested the language could be amended to be more specific such as the farm worker must be employed full time.

Mr. Hankin said farm work tends to be seasonal.

Ms. Nelson said some farm uses are seasonal.

Mr. Pachano said the housing should not be allowed to be rented out for profit. The units should not be used for short-term rentals or rentals at any time.

Ms. Nelson said the intent was to make a genuine effort for all farmers to be able to provide small houses for their workers. Someone commented that the housing could increase the income for farmers. That is not the intent of the language.

Mr. Rembold said Mrs. Mooney asked if the housing could be subdivided. He said condo ownership would not trigger subdivision control but multiple owners on a parcel could trigger it. Subdivision would be triggered by the form of ownership.

Mr. Pachano said it is important to add that the property would be in common ownership.

Mr. Fick said full-time employees might be too restrictive but it is better to be too restrictive than too loose.

Mr. Pachano said we are trying to prevent the housing from being an additional income or income producing.

Mr. Higa said he is concerned about farms that are seasonal not being able to take advantage of the bylaw. He asked if there should be a special permit process to put conditions in.

Ms. Nelson said she appreciates that thought. She said the goal was to simplify the needs of farms. We are trying to not create barriers. She said she would not support a special permit requirement.

Mr. Higa said he is concerned about seasonal workers that wouldn't be full time.

Ms. Nelson said the full-time workers could be identified. The ADUs would be in common ownership. She wondered if that would be strong enough to allow protection against short term rentals.

Mr. Pachano said he has no objection to how it is written. He said he is not concerned about short term rental. Language stating full-time employees could be added.

Mr. Hankin said he is concerned about full-time language. He said he would rather have the language stay as it is.

Mr. Fick said he is not comfortable with the language as it is. He said this might be too complex to figure out right now. He said someone could buy the farm and put 500 ADUs in then lease the land back to the farmer.

Mr. Fick made a motion to amend the language to add “full-time employees”, Mr. Higa seconded.

Mr. Pachano said does full-time mean 40 hours a week 52 weeks a year.

Ms. Nelson said the intent would be full-time on a farmer’s payroll. She didn’t think it was necessary to list specific hours.

Roll call vote: Mr. Hankin, nay; Mr. Fick, aye; Mr. Pachano, nay; Mr. Higa, aye; Ms. Nelson, aye

Mr. Pachano made a motion to make a positive recommendation to the ATM on article 5 in its entirety, Mr. Higa seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Hankin said Article 6 deals with Tiny Houses. He said there was a question about taxes. He said if the house is movable it would be subject to excise tax. Once the house is on a foundation it would be assessed property tax.

There were no additional comments.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson explained that Article 7 is a clarification of buildable area.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 8 amends the Design Review procedures. She said Ed Abrahams suggested changing the word “prevent” in 7.19.2 3 to “discourage”. He also pointed out that the

numbering was off as there are 2 Section 7.19.3. She asked if there were any objections to the amendments. There were no objections.

Mr. Pachano made a motion to send a positive recommendation the ATM, Mr. Hankin seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson thanked Mr. Pachano and Mr. Rembold for their hard work on this bylaw amendment.

Ms. Nelson said Article 9 deals with the PURD regulation. She said the only public comment about the article is assisted living residences are allowed.

Mr. Hankin said he didn't think it would be an issue. He said the issue with allowing that type of residence had to do with traffic.

Ms. Nelson asked if there is a definition for "assisted living".

Mr. Rembold said yes.

Mr. Hankin said a special permit would be required for a PURD. We need assisted living facilities. He said he didn't want to strike that language.

The other Board members agreed with Mr. Hankin.

Mr. Pachano asked about the inconsistency with the density requirement as written.

Mr. Hankin said that is a mistake. He said the underlying zoning prevails.

Ms. Nelson said the table in 8.5.4 4 will be amended to be 1700 square feet in the R-3.

Mr. Hankin said that is correct.

Mr. Fick made a motion to amend the land area table in the R-3 zone from 5,000 to 1700 square feet, Mr. Higa seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Pachano said the purpose of the PURD is to cluster housing. He said as many units as possible should be put on the lot. He suggested that wetland areas and protected areas should be part of the open space requirement.

Mr. Hankin said it is included in 8.5.1 4.

Ms. Nelsons said she would not be comfortable making a change of that type at this point because it could be challenged.

Mr. Fick made a motion to send a positive recommendation on the amended article to the ATM, Mr. Hankin seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 10 brings the bylaw language into compliance with the Building Code.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 11 changes the SPGA for most residential uses to the Planning Board and makes the changes in the Table of Use Regulations. She said public comments were that the Selectboard is the better board to be SPGA.

Mr. Rembold said there were comments about mixed use in the B zone and B-2 zone going from SP to yes.

Mr. Pachano said someone from the Board needs to stand up to defend this article at the ATM.

Ms. Nelson said she is willing to speak.

Mr. Fick said we need to explain why we are making the change. He said we need to explain more.

Mr. Pachano said we will run up against the argument that the Selectboard is more considerate of residents concerns than the Planning Board. That is the public's perception is that the Planning Board is more concerned about the developer's interests than the resident's concerns.

Ms. Nelson if TV is an issue maybe we can have more TV coverage. She said she we review all of the special permits anyway and we have knowledge of land use. She said she agrees that we need to be prepared to explain our rationale.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 12 amends the Water Quality Protection Overlay District to clarify the process for altering non-conforming uses. She said we will need to explain and clarify the language. She said public comments were that the language does not clarify. She asked if this needs more work, should be passed over or modified.

Mr. Hankin said the language would allow replacement of an old fuel tank more quickly. He said Mr. Abrahams was concerned that the Town didn't have an opportunity to review and have a say in where a new tank would be placed. He suggested having a special permit process.

Mr. Hankin said he would be happy to address it at the ATM.

Mr. Rembold said requiring a special permit, which is discretionary and that can be appealed is counter productive for replacing an old tank that is required to be replaced. He said the language clarifies the process for replacement of old fuel tanks. He said the discussion can get confusing. He said perhaps we are trying solve a non-problem, as town counsel has already ruled on the matter.

Ms. Nelson said we can leave it as it is and not make a recommendation to the ATM.

Mr. Pachano said we have a ruling from Town Counsel so the language doesn't do anything. We can leave it as it is and if we want to make it clear we can redo the entire bylaw.

Mr. Fick said either way policy has been established.

Mr. Higa thought the article should be taken out.

Ms. Nelson said she thinks it will be contentious at Town Meeting and suggested it be passed over.

Mr. Rembold said he will see if it can be removed from the warrant but it is clear that the language is not supported so it can be passed over at the ATM.

Mr. Pachano made a motion not to recommend Article 12 to the warrant or the ATM, Mr. Higa seconded.

Mr. Hankin said all this is doing is clarifying language that Town Counsel provided that wasn't clear enough. Town Counsel could change then we would incur additional legal fees to clarify in the future.

Mr. Fick said if it goes before Town Meeting it could be amended on the floor. It is dangerous to have it amended at the ATM.

Mr. Rembold clarified that the article can be passed over.

Mr. Pachano withdrew his motion and Mr. Higa withdrew his second for Mr. Fick to make a motion not to include the article in the warrant, Mr. Higa seconded.

Roll call vote: Mr. Hankin, nay; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 13 amends Section 8.4, mixed-use regulations to clarify the minimum non-residential component in a mixed-use development. She said there is potential conflict with this article and the citizen's petition.

Mr. Pachano wanted to know why the Housatonic Village Overlay District was not included.

Ms. Nelson said it can't be added at this time. The folks in Housatonic would have to be provided an opportunity to comment.

Mr. Rembold agreed with Ms. Nelson. He said there could be procedural problems to try to change regulation that covers the HVOD.

Mr. Hankin made a motion to send a positive recommendation to the ATM, Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Ms. Nelson said Article 14 creates a new section of the bylaw that would allow for the conversion of a nursing home to a multi-family use. She said there was a comment from Mr.

Ferris suggesting that in 8.10.2 where the date is May 7, 2020 to change that to “during the calendar year”. She said she has no objection to that change.

Mr. Hankin said there is one typo that need to be corrected.

Mr. Hankin made a motion to amend 8.10.2 to read “existing as of 1/1/2020, Mr. Fick seconded. Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Hankin made a motion to send a positive recommendation to the ATM as amended, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

FORM A's

Mr. Rembold presented a Form A application on behalf of Susan Delmolino for a parcel of land located on the right of way off the northeast side of Pearl Street. Parcel A contains .0110 acres of land.

Ms. Nelson said the plan does not create a new building lot. The lot is intended to be conveyed to an existing lot.

Mr. Hankin made a motion to endorse the plan, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Rembold proposed a way to endorse the plan and possibly future plans. He said under the current conditions it is physically impossible for the Board members to endorse the plan. Chapter 81L allows boards to identify the Chair or another person to endorse plans on behalf of the board. He suggested that the Board designate the Chair and possibly myself to endorse plans so that we can keep business moving.

Ms. Nelson said this proposal recognizes current health issues.

Mr. Rembold said this endorsement plan will be in effect until June 30, 2020.

Mr. Fick made a motion to authorize the Chair and/or Mr. Rembold to sign Planning Board paperwork from now until June 30, 2020, Mr. Higa seconded.

Mr. Hankin asked if this endorsement authorization is just for Form As.

Mr. Rembold said he isn't sure but he will look into it.

Mr. Fick said he thinks it applies to any instrument of Subdivision Control Law.

Mr. Rembold said ok.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

MINUTES: MARCH 12, 2020

Mr. Hankin made a motion to approve the minutes of March 12, 2020 as amended, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

CITIZEN'S SPEAK TIME:

Mr. Doyle thanked the Board for their hard work especially under these current circumstances.

Ms. Nelson asked if there is a definitive date for the ATM.

Mr. Rembold said not yet.

Ms. Nelson thanked Mr. Rembold for his extraordinary efforts for making this meeting happen.

Having concluded their business, Ms. Nelson adjourned without objection at 8:40 P.M.

Respectfully submitted,

Kimberly L. Shaw

Planning Board Secretary