

PLANNING BOARD

DATE: August 11, 2022
TIME: 7:00 P.M.
PLACE: Zoom Virtual Meeting
FOR: Regular Meeting
PRESENT: Brandee Nelson, Chair; Pedro Pachano; Jonathan Hankin; Malcom Fick;
Jeremy Higa
Chris Rembold, Assistant Town Manager/Director of Planning and Development

Ms. Nelson called the meeting to order at 7:00 P.M. She read the opening statement, revised by Governor Baker on July 16, 2022, from the agenda. She said the meeting was being recorded. Ms. Nelson also read Section 241-1 of the Town Code.

She called for roll call attendance:

Mr. Hankin, present; Mr. Pachano, present; Mr. Fick, present; Mr. Higa, present; Ms. Nelson, present

FORM A's:

There were no Form A's

MINUTES: JULY 28, 2022

Mr. Hankin made a motion to approve the minutes of July 28, 2022 as amended, Mr. Fick seconded.

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

ZONING STRATEGIES TO INCREASE HOUSING OPPORTUNITIES:

Mr. Rembold said he sent out a draft of zoning amendments to continue discussion of 2-family and ADU and 3-family and Site Plan Review. He said terminology is changing so instead of using the term "family" the term will now be unit. He said we will not be talking about family but rather the structure.

Mr. Rembold shared his screen showing the draft *Zoning Amendments for Discussion PB meeting 8-11-22*. The redlined draft is attached to the end of the minutes.

Mr. Rembold said 8.3 would now list a multi-unit as 4 or more units. He said 6.4 Performance Standards and Design Criteria has been added for the Board's consideration. If everyone agrees they will be applied to all units.

Mr. Hankin said 8.1.2.5 shouldn't reference drainage as it will be taken out of SPR. He said reference to drainage should be taken out. He said he likes what has been presented.

Mr. Pachano said he agrees with what Mr. Rembold presented. He said 8.3.4 references SPR requirements. He said he would like to see the SPR bylaw. He said 8.1.2 requires site plans and floor plans and elevations. He asked why floor plans have to be submitted.

Ms. Nelson said that is proposed to be struck.

Mr. Rembold said it is proposed to be struck. He said he is not sure why it was ever in there.

Ms. Nelson said she thought the floor plan was required to show a kitchen and bathroom space.

Mr. Rembold said it won't need to be stated in the bylaw if the new definition of a structure is accepted. Mr. Rembold said 8.1.2 could be eliminated except for parking requirements.

Mr. Fick said he is not in agreement about removing SPR provisions. He said he sent some suggested language to Mr. Rembold and Ms. Nelson.

Mr. Rembold apologized for not sending it out. He said he would share it on the screen and send out for everyone to review. He said if Mr. Fick's approach is approved 8.1 would stay in place.

Mr. Fick said he liked the approach presented by Mr. Rembold.

Mr. Hankin said he liked it too.

Ms. Nelson said Mr. Rembold nailed it. She said if everyone is good with the approach, we can discuss the process suggested by Mr. Fick after we have a chance to read it.

Mr. Fick said he took SPR and broke it into components. He said it is not a finished document but rather an organization of thoughts. He said if all of the criteria are met there wouldn't be a need for SPR. He said there could be a checklist for how to waive SPR.

Mr. Rembold said if SPR is required somewhere it is required. Some submittal requirements could be waived but SPR would still have to be gone through.

Ms. Nelson suggested crosschecking where SPR is listed in the bylaws.

Mr. Rembold said yes it should be looked at to determine where it is warranted or overly burdensome. He said there could be a specific stop or go within the regulations.

Mr. Fick asked if the text he suggested makes sense.

Ms. Nelson said yes. She said it can be clarified and the framework tweaked. She thanked Mr. Fick for the discussion. She said it seems consistent with what was discussed at the last meeting.

Mr. Higa agreed that the discussion was consistent with the discussion from the previous meeting. He said he would like to discuss further at some point his ideas about character.

Ms. Nelson said we are just seeing Mr. Fick's suggestion in a general way. She said we can discuss it further at the next meeting.

Mr. Higa asked how language will keep people out or be a deterrent for people going through the exercise.

Ms. Nelson said she doesn't think anyone would have to go through SPR for character.

Mr. Pachano said he would like to look at the language and think about it more. He said he would like to discuss performance guidelines under 6.4. He said a person building an ADU would have to go through the same process as someone building a 30-unit building.

Mr. Rembold said that is true as it stands now.

Mr. Pachano said a person building a 4,000 square foot house would not have to go through the guidelines but if two 2,000 square foot houses were built on the same lot that would have to go through the process.

Mr. Rembold said yes on some lots the two houses would have to go through. He said SPR only applies to what is required to have an SPR. Performance guidelines would apply to all.

Ms. Nelson said the Building Inspector would have to be relied on for performance guidelines.

Mr. Pachano said any project would still have expert eyes on it with Mr. Rembold and the Building Inspector.

Mr. Fick agreed. He said with objective performance guidelines we wouldn't need SPR.

Mr. Rembold suggested looking at what has been proposed before the next meeting. He suggested thinking about what does cut & fill mean. Should there be a quantitative measure. He asked the Board members to send thoughts to him.

FINANCIAL STRATEGIES & STAFF CAPACITY:

Ms. Nelson said it was discussed at the last meeting that there are some ideas that require financial considerations that is not in the purview of this Board. She said Mr. Rembold provided a draft letter to send to those boards that can deal with the financial end.

Mr. Hankin said the letter doesn't include anything about the driveway issue. He said limitations on curb cuts is arbitrary.

Mr. Rembold said two curb cuts are allowed unless there is an extraordinary reason to need more.

Ms. Nelson the Selectboard evaluates curb cuts for residential uses. She said not every lot can support multiple curb cuts.

Mr. Pachano said he thinks we could review the criteria.

Mr. Hankin said the Selectboard review the curb cuts because they are on Town roads.

Mr. Pachano said we could provide review material.

Mr. Hankin said the review goes to the Highway Superintendent before it goes to the Selectboard.

Mr. Rembold said there is generally a letter that goes to the Selectboard. He said the driveway issue has not been discussed with the Selectboard.

Ms. Nelson said this hasn't been discussed enough to include with this letter. She suggested a separate letter could be sent.

Mr. Hankin said he doesn't know why we are afraid to put it in a letter as it is an affordable issue.

Ms. Nelson said she isn't afraid to put it in a letter. She said we can send more than one letter.

Mr. Fick suggested putting it on our agenda to discuss then to send suggestions to the Selectboard.

Mr. Pachano agreed.

Mr. Hankin said the restriction to prevent tenants from short-term renting their units should be removed.

Ms. Nelson asked how does this address affordable housing.

Mr. Hankin said he had a tenant who would short-term rent the unit to help make rent. The restriction is discriminatory. He said if we are sending a shopping list to the Selectboard this should be on the list.

Ms. Nelson said we don't need to keep adding and editing if we want to get the letter out the door.

Mr. Fick said he doesn't want to create a checklist that is too big at one time.

Mr. Rembold said the letter is not a full list or a criticism.

Ms. Nelson asked if the letter could be sent with Mr. Hankin's edits.

Eileen Mooney said she sees some minor phrasing and grammatical edits. She said it won't change the intent. She asked if she could send them to Mr. Rembold.

Ms. Nelson said yes.

Mr. Hankin made a motion to submit the letter prepared by Mr. Rembold substantially in the current form with edits that don't change the intent, Mr. Fick seconded.

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

Ms. Nelson said she will keep a running list.

Mr. Fick said he would go through the bylaws to identify where SPR is required. He said he would have it prepared for the next meeting. He said he thinks it would be good to have one page listing all the parts of the bylaw that require SPR.

Mr. Rembold said he will keep a general item on the agenda to continue to flesh out items.

Ms. Nelson asked Mr. Hankin to give some specific thought to the driveway issues. She asked him to put the issues together for a specific item.

Mr. Hankin agreed.

Mr. Pachano said he emailed the performance standards he suggested.

BOARD & COMMITTEE ISSUES & CONCERNS:

Mr. Pachano requested that documents to be reviewed be the same as what is discussed at the meetings.

Mr. Rembold said the issue with red lined version of the bylaw not showing the redlines has to do with a function of Word. He said he will send PDFs going forward.

Ms. Nelson said Apple won't show the markups.

Mr. Pachano said the articles that have been talking about housing shortages in bigger cities and towns refer to homelessness.

Mr. Hankin said we have homelessness.

Mr. Pachano said yes but not to the degree that they have it in bigger cities. He said he spoke with June Wolfe from Construct. She said she knows people are sleeping in the woods. He said affordability is a serious problem but housing variety is also important. He said he is thinking about the housing we are missing. He said what is missing is as important as the other issues. He said it is important to discuss different types of habitation.

Ms. Nelson said she is proud of this group for always thinking about bylaws but there are some existing items that need to be finished from last year like the Stockbridge Road zoning.

Mr. Higa said the CPC will meet next on August 23 to reorganize and set a public hearing for their plan.

Ms. Nelson said the Lake Mansfield Improvement Task Force will meet on August 30 at 5:00 to discuss where we are with the design.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Parks Commission has put out a brief survey about how the parks are used and improvements that are needed.

Ms. Nelson asked Mr. Rembold if he had any sense of when there might be housing on the North Plain Road site.

Mr. Rembold said he has no sense of timing.

CITIZEN'S SPEAK TIME:

Ms. Nelson asked if anyone in the audience wanted to speak. No one spoke.

Having finished their business, Ms. Nelson adjourned without objection at 8:19 PM.

Respectfully submitted,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary

TABLE OF USE REGULATIONS

Permitted Use	ZONING DISTRICT ¹															ADDITIONAL APPLICABLE REGULATIONS
	R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I	I2	
A. Residential uses																
(1) Dwelling, Single family <u>unit</u>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	SB	SB	
(2) Dwelling, Two- family <u>and</u> three-unit	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	See also <u>8.1</u> , <u>8-7</u> .
(3) Dwelling, multi- unit <u>family</u> 34 to 8 units 9 units or more	SB N	SB N	SB N	SB N	N N	Y SB	SB SB	SB N	Y SB	SB SB	Y SB	Y Y	Y SB	N N	SB SB	See also <u>8.3</u> See also <u>8.3</u>

² NOTE: Dimensional and lot size requirements and other conditions as set forth in 8.1.1 and 8.1.4 shall apply even where the use is permitted by right.

Commented [CR1]: Not sure this needs to be stated. If stated should be updated with to reflect revised 8.1 sub items

DEFINITIONS

ACCESSORY DWELLING UNIT: a subordinate dwelling unit on the same lot as a primary single ~~family-unit~~ or two-~~familyunit~~ residential use, whether in an accessory building or within the same building as the primary dwelling, with provisions for independent cooking, living, sanitation and sleeping. A Movable Tiny House (MTH) connected to electricity, water, and sewer or septic that has its chassis, wheels, and hitch concealed shall be considered an accessory dwelling unit.

DWELLING, SINGLE ~~FAMILYUNIT~~: A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-~~FAMILYUNIT~~: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

DWELLING UNIT: ~~One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one family. A structure containing, under one roof and within exterior abutting walls, one or more rooms, including room or rooms for living, sleeping, cooking, and sanitation.~~

~~FAMILY:~~ ~~One or more individuals related by blood, marriage or adoption, or not more than five individuals who are not so related, living together as a single housekeeping unit.~~

➤ Perform a full code search for “family” and replace with “unit.”

8.1 TWO- ~~AND THREE-UNIT FAMILY~~ RESIDENTIAL USES ~~OF A SINGLE LOT~~

8.1.1 General. The two- ~~and three-unit family~~ residential use of a single lot is permitted as set forth in Section 3.1.4, Table of Use Regulations. For the purposes of this section, any two ~~or three~~ dwelling units on a single lot, whether in the same building or in separate buildings, shall be considered two- ~~or three-unit family~~ residential use, ~~except where Section 8.2 applies.~~

~~**8.1.2 Site Plan Approval Required.** Two family residential use of a single lot shall require site plan approval from the Planning Board. Every application for a site plan approval shall be accompanied by site plans, floor plans and elevations meeting all applicable requirements of this Bylaw.~~

8.1.32 Requirements. All two-~~family~~- ~~and three-unit~~ residential uses shall comply with the following requirements:

1. All repairs, renovations or construction specified by the applicant in his application shall be made to the satisfaction of the Inspector of Buildings before an occupancy permit is issued.
2. There shall be separate toilet, bath and kitchen facilities for each dwelling unit.
3. Fire escapes and outside stairways leading to a second or higher story, where practicable, shall:

Commented [CR2]: Remove site plan requirement and instead strengthen the Performance and Design Standards section.

Commented [CR3]: This need not be stated.

Commented [CR4]: This need not be stated either (see definition of dwelling unit).

not be located on any building wall facing a street; be located on the rear of the building; and comply with Section 4.2.3, Permitted Projections into Yards.

Commented [CR5]: This should apply to all new buildings, of any type, not just 2-unit dwellings.

4. One and one-half (1.5) off-street parking spaces shall be provided for each dwelling unit, located in such a manner that permeable surfaces, including lawns and/or garden areas but exclusive of all structures, driveways, walkways and parking spaces, shall be no less than 15% of the total area of the property. Deviation from this requirement may be permitted in accordance with Section 6.1.9.

5. Drainage controls shall be specifically designed and detailed on drawings. Drainage improvements may be required as a condition of the site plan review approval.

Commented [CR6]: Let's make drainage, and stormwater runoff, lighting, etc, a set of design & performance standards that can be approved on an administrative level or simply verified prior to BP or CO.

AT least delete last sentence referring to SPR

~~6. Any other conditions specified by the Planning Board.~~

~~8.1.4 Notice. The Planning Board shall notify the Inspector of Buildings of its site plan review approval and any conditions prior to the issuance of a building permit.~~

Commented [CR7]: Not sure you can have this clause any longer unless you want to make it by special permit.

8.2 ACCESSORY DWELLING UNIT (ADU)

8.2.1 General. An accessory dwelling unit (ADU) is permitted in any district, except where an ADU is proposed in a legally pre-existing nonconforming structure, in which case the ADU shall require a special permit issued by the Zoning Board of Appeals in accordance with Sections 5.0, 8.2, and 10.4.

~~8.2.2 Site Plan Approval. Any new ADU shall be subject to site plan review and approval based upon the criteria set forth herein and in Section 10.5. The Planning Board will conduct the site plan review in accordance with Section 10.5 and all criteria specified in Section 8.2. An approved site plan for an ADU is required prior to the issuance of the building permit by the Building Inspector. The Board of Health shall give its approval prior to the issuance of a building permit.~~

8.2.3 Requirements.

1. Only one ADU may be established per lot.
2. An ADU may not in any case be larger than 900 square feet of net usable floor area. If a dwelling unit greater than 900 square feet of net usable floor area is created within a single-family home, the residence will be considered a two-family dwelling and will be subject to the requirements of Section 8.1 of this Bylaw.
3. The structure in which the ADU is to be located must meet the zoning requirements for residences, except when it is a legally pre-existing nonconforming structure and the Zoning Board of Appeals authorizes the use by special permit.
4. One parking space shall be provided in addition to that required by the present building. All required parking spaces, including the parking space for the ADU, must be provided no closer to the street than the building setback line, ~~unless other specified provisions are made and agreed to by the permit granting authority. The Planning Board, or SPGA, in accord with a finding by the Planning Board, may, by special permit pursuant to Section 10.4, authorize a deviation from this requirement.~~ Deviation from these requirements may be permitted in accordance with Section 6.1.9.

5. An ADU may be created within a new or a previously existing single-family-unit or two-unitfamily residential structure.

6. A home occupation may be allowed within any dwelling unit and/or accessory structure. Any such home occupation shall meet the provisions of Section 3.3.

7. Fire escapes and outside stairways leading to a second or higher story shall comply with Section 4.2.3.

8. Farm Dwellings: More than one ADU shall be allowed on lands used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture as defined in MGL Ch. 128, Sec 1A, provided such ADUs are solely used for the farm's full time employees.

9. The Board of Health shall give its approval prior to the issuance of a building permit.

Commented [CR8]: This should apply to all new buildings, of any type, not just ADUs.

Commented [CR9]: The Board, or the agent?

Delete

8.3 MULTI-UNITFAMILY DWELLINGS

8.3.1 General. Multi-unit residential family-uses may be permitted by-right or by special permit as set forth in the Table of Use Regulations, and, ~~All multi-family-uses~~ shall require site plan approval in accordance with Section 10.5.

8.3.2 Definition. For the purposes of this section, the placing of more than ~~two-three~~ dwelling units on a single lot, under any circumstances, shall be considered a multi-unitfamily-use residential use. Example: an accessory dwelling unit on the same lot as a three-unit residential use would classify as a multi-unit residential use.

8.3.3 Requirements. Multi-unitfamily dwellings shall comply with all the following special requirements ~~and procedures, as applicable, which shall be made conditions of the special permit.~~ The Special Permit Granting Authority (SPGA) may waive any or all of these requirements for multi-unitfamily dwellings in existence as of May 9, 2016, after making a specific finding of why the requirement should not apply, and shall note any waivers in the Special Permit decision.

1. In a ~~multi-unit multifamily~~ development, more than one principal building may be permitted on a lot, provided that there shall be at least 2,500 square feet of lot area for each dwelling unit. The SPGA may, by special permit, allow the lot area per unit to be less than 2,500 square feet per unit.

2. Permeable open space on the lot, including lawn and/or garden area but exclusive of structures, driveways, walkways and parking spaces, shall be no less than 50% of the total area of the property.

3. One and one-half (1.5) off-street parking spaces shall be provided for each dwelling unit. No space shall be considered available for parking if such space reduces the effective width of a driveway providing access to more than one dwelling unit to less than 12 feet. In the event that the required parking spaces cannot be provided on the property, deviation from this requirement may be permitted in accordance with Section 6.1.9.

8.3.4 Procedures. When filing a special permit application, if required, the applicant shall submit to the SPGA at least six copies of a site plan showing, in addition to all characteristics specified in Section 10.5, the general plan and elevations of the buildings, as well as provisions for proposed parking spaces, interior roadways, walkways, drainage and recreational facilities.

1. Such site plan, subject to such amendment thereof as may be required by the Planning Board under the provisions of this Bylaw shall be made a part of the building permit.
2. The SPGA shall notify the Inspector of Buildings of its approval of a special permit.

Commented [CR10]: This is the applicant's responsibility.

8.3.5 Occupancy Permit. All repairs, renovations or construction specified by the applicant in his application shall be completed to the satisfaction of the Inspector of Buildings before an occupancy permit is issued.

Commented [CR11]: This seems unnecessary as the basic site plan submittals already required elevations for new construction, as well as parking, etc.

8.3.6 Exemptions in Downtown B District, B2X, HVC, MXD District, and General Business B2 District. The requirements of Section 8.3.3 shall not apply to any multifamily dwelling in a single existing building within the Downtown Business B District, B2X, HVC, or MXD District.

Commented [CR12]: This need not be stated

6.4 PERFORMANCE STANDARDS

6.4.1 General. Hereafter, no land, building or structure in any district shall be used in a manner that creates any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare or any other dangerous or objectionable substance, condition or element in any amount that adversely affects the surrounding area or premises. The determination of the existence of any dangerous or objectionable elements shall be made at or beyond the property lines of the use creating such elements, wherever the effect is greatest. Any use already established on the effective date of this Bylaw shall not be altered or modified to conflict with, or further conflict with, these performance standards.

6.4.2 Deposited Materials. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces. Erosion control measures such as covering, planting, pacing or other means to eliminate wind and water erosion shall be utilized to stabilize bare earth and/or stockpiled materials at all times.

6.4.3 Fire Hazard; Pests. All materials or wastes which constitute a fire hazard or which may be edible by or attractive to rodents or insects shall be stored outdoors only in closed containers.

6.4.4 Discharges. No discharge at any point into any public sewer, private sewage disposal system or stream, lake or pond or into the ground of any material of such nature or temperature as may contaminate any water supply or cause the emission of dangerous or offensive elements shall be permitted, except in accordance with standards approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Great Barrington.

6.4.5 Lighting. It is the intent of this section to establish lighting standards that result in lighting systems that are designed, constructed, and installed to control glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, visibility, security of individuals and property, and curtailing the degradation of the nighttime visual environment.

The following standards shall apply to all exterior light fixtures, whether new or replacement, except for temporary lights.

1. All lights shall have full horizontal shielding such that the housing does not allow any light dispersion or direct glare to shine above a ninety-degree or horizontal plane from the base of the fixture.
2. Any LED lights shall have a color temperature of 3,000 Kelvin or less.
3. No light shall remain permanently illuminated between the overnight hours from 11:00 PM to 5:00 PM unless the light can be dimmed to not more than 50 percent luminance. Motion sensors and photo cells may be utilized to turn on lights or to increase lighting to full illuminance.

6.4.6 Special Permit. The Planning Board may, by special permit pursuant to Section 10.4, authorize a deviation from any requirement set forth in this Section 6.4. In instances where an application is pending before a different Special Permit Granting Authority, that body may, in accord with a finding by the Planning Board, authorize the deviation from the requirements of Section 6.4.