

## PLANNING BOARD

DATE: March 14, 2019

TIME: 6:00 P.M.

FOR: Regular Meeting/Continued Public Hearing

PLACE: Large Meeting Room

PRESENT: Brandee Nelson, Chair; Jonathan Hankin; Jeremy Higa; Pedro Pachano  
Malcolm Fick by phone  
Garfield Reed, Associate Member  
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 6:03 P.M. Mr. Higa had not yet arrived.

### **FORM A'S:**

There were no Form A's presented.

### **MINUTES: MARCH 7, 2019**

Mr. Hankin made a motion to approve the minutes of March 7 as amended, Mr. Pachano seconded, all in favor.

### **TOWN PLANNER'S REPORT:**

Mr. Rembold said it is the intent to avoid a meeting on March 28. He said the next scheduled meeting will be on April 11. At this time there is an application for an existing two-family to become a legal two-family. He suggested a site visit be scheduled.

Mr. Higa arrived at 6:05 P.M.

Ms. Nelson suggested a site visit at 6:30 P.M. on April 11. The exact address was not available at the meeting. The Board will meet at the corner of Pine Street and Higgins Street.

Mr. Rembold said that on April 11 the report to the Annual Town Meeting will be finalized.

Mr. Rembold said at the April 25<sup>th</sup> meeting there will be a public hearing for a special permit for a commercial scale solar project on Stockbridge Road. He recommended a site visit be scheduled.

The Board scheduled a site visit for April 25<sup>th</sup> at 6:00 P.M. at 671 Stockbridge Road, across from the high school.

### **DESIGNATE BOARD MEMBERS:**

Ms. Nelson said she had a call from Selectboard member Bill Cooke who requested that a Planning Board member be designated to the Public Transportation Advisory Committee. Mr. Reed said he would be interested representing the Board on the Committee.

Ms. Nelson thanked Mr. Garfield for his interest.

Mr. Rembold said the Open Space and Recreation Plan Committee needs to be updated every 5 years. The OSRP was last updated in 2013 as part of the Master Plan update. This year there will be a task force assembled to get the update done. He said he expects the work to last about 9 months.

Mr. Rembold said the task force will consist of three citizens at large, a member of the Selectboard, Planning Board, Conservation Commission and the Parks Committee. He asked if anyone would be interested in being the Planning Board representative.

Mr. Pachano said he would like to do it.

Mr. Hankin made a motion to appoint Mr. Reed to the Public Transportation Advisory Committee and Mr. Pachano to the OSRP task force, Mr. Higa seconded, all in favor.

#### **BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:**

Ms. Nelson said she missed the last meeting of the Lake Mansfield Improvement Task Force Committee. She said the next meeting on March 26<sup>th</sup> at 5:00 P.M. at the Fire Station will discuss information about the road and the grant process.

#### **CITIZEN'S SPEAK TIME:**

No one spoke.

Due to the requirement to not begin the public hearing until 7:00 P.M., Ms. Nelson said the meeting will reconvene at 7:00 P.M.

At 6:55 P.M. Ms. Nelson reconvened to continue Citizen's Speak Time.

Mike Gilmore owner of property on Gas House Lane asked about a possible use in his building. He said the property has been rezoned from the I zone to the I-2 zone.

The property was the site of the first proposed medical marijuana facility.

Mr. Gilmore asked that the wording be changed under the uses in the I-2 zone to allow by special permit a marijuana processing use.

Ms. Nelson said the Board will put it on the amendment list for next year. It is too late to present it at this year's Annual Town Meeting.

Mr. Gilmore asked if it could be presented at a special town meeting if one is scheduled.

Mr. Rembold said in theory it could be.

Ms. Nelson said Mr. Fick will be joining the meeting by phone.

Michele Loubert said she would be recording the meeting.

Ms. Nelson said the public hearing will be recorded.

Mr. Hankin made a motion to re-open the public hearing, Mr. Higa seconded.

Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye. The public hearing re-opened at 7:00 P.M.

Mr. Rembold gave a brief overview of the last public hearing. He said the Board knew they were tackling a lot of amendments for this year's town meeting. He said he has some recommendations on how to proceed based on the feedback at the last public hearing. He said the goal is to clarify the areas that need to be clarified and to meet the Board's housing goals.

Mr. Rembold referred to the e-mail he sent dated March 11, 2019 re: Zoning-my recommendations for what to keep and what to drop.

Ms. Nelson said she supports Mr. Rembold's recommendations. She said we need work on the proposals that will allow us to reach our goals and leave off the more controversial proposals to make what is presented to town meeting more palatable.

Mr. Hankin said he agreed about holding off on the proposals for the WQPD, the SPGA and marijuana processing. He said he thinks the other items proposed to be dropped are important. He said he thinks we can do a better job at presenting.

Mr. Higa asked how the articles will be grouped. He said it might still take a lot of time at the town meeting.

Ms. Nelson said the recommendation is to proceed with 1/3 of the items originally proposed and hold off on 2/3 of what was proposed. She asked if there is an opinion on the hold off items.

Mr. Higa said it is worth discussing the changes to make for less controversy.

Mr. Reed said he is in agreement with hold offs.

Mr. Fick said he is general agreement with what has been recommended. He said he would like to keep Tiny Houses and changing the three and a half stories to three stories in the B-2 zone on Stockbridge Road.

Mr. Pachano said he doesn't think the ADU proposal is too complicated. He said he would be willing to sacrifice the setback but not the net buildable area for small lots.

Mr. Rembold said three items would be added to the list to proceed with.

Ms. Nelson asked if there were any comments from the audience.

Michele Loubert from Division Street said she is concerned about time that will be taken at the Town Meeting. She said people are not happy about the setbacks.

Claudia Shapiro from Egremont Plain Road said she has no issue with holding off on the WQPD. She said she also has no problem with holding off on making the Planning Board the SPGA.

Mr. Rembold said those items will not go to town meeting.

Mr. Fick said he is not sure why a building on Stockbridge Road would be allowed to be 3.5 stories.

Mr. Hankin said 40 feet in height is allowed.

Mr. Fick said this is the only zone with allows 3.5 stories in 40 feet. (THIS WAS NOT MENTIONED, BUT THE MXD ZONE ALREADY ALLOWS 3 ½ STORIES IN 40'.)

Mr. Hankin said at the town meeting it will be simpler to show a chart for the four uses being modified. It doesn't make sense in print.

Ms. Nelson said the I zone along Stockbridge Road will be changed to B-2. Light industrial uses would be allowed by special permit.

Mr. Hankin said there are a couple of existing small businesses that should be allowed.

Mr. Rembold said it might be a use that you don't want to preclude so it can be allowed by special permit.

Mr. Hankin said it is not fair to change the zoning and make the businesses non-conforming without giving a grandfather status.

Mr. Rembold said if the use was allowed when it was started then the business enjoys that previous status. He said he agrees that a special permit option should be provided.

Mr. Hankin said he doesn't think 3 stories in 40 ft is architecturally compatible.

Mr. Fick said he understands but that can be addressed next year.

Mr. Hankin said he is fine with that as long as the Board is aware of the discrepancies.

**DOWNTOWN B-ZONE UPDATE:**

Mr. Hankin said the amendment to this zone is about making it consistent with the overlay zone. He said no new uses are proposed. He said he wants to show a table at the town meeting not language.

**ADU DEFINITION:**

Mr. Hankin said there will be clarification of the ADU definition.

Mr. Rembold said the clarification will be that an ADU can be in an accessory building or in the main building.

Ms. Nelson asked if the ADU amendments will be one article or two.

Mr. Rembold said the clarification needs to be made regardless of the other ADU discussion.

John McGruer from Grove Street asked if ADUs are in the Table of Uses. He said he couldn't find it in the Table of Uses.

Mr. Rembold said it would fall under 8.2. 1, customary and incidental.

Mr. McGruer said it would then be a by-right use.

Mr. Rembold said yes.

Mr. McGruer said there is nothing about abutters being notified about the changes that could be made. In all fairness there should be a method of notification to the abutters.

Ms. Nelson said that is a fair request.

**DESIGN ADVISORY COMMITTEE:**

Ms. Nelson said the amendment reduces the number of people on the DAC from 7 to 5 and sets a time limit for the DAC to comment on an application.

Mr. Rembold said the DAC has discussed the Planning Board proposal.

Mr. Pachano, who is the Chair of the DAC, said the Planning Board proposed two lines underlined at the end of 9.5.2. The DAC does not want the change so there is no change to 9.5.2. The DAC is in favor of the other two changes.

Ms. Nelson asked if there are any comments regarding the DAC proposal. There were none.

**B-3 AMENDMENTS:**

Mr. Hankin said in 9.4.5.1, the minimum lot size for a two family should remain at 5,000 square feet. In 9.4.7 stop at 6.1.9 and leave off the rest of the sentence.

Mr. Rembold agreed with Mr. Hankin.

There were no other comments.

**TWO-FAMILY AMENDMENT:**

Mr. Hankin said there are minimal changes; we are going from 2 parking spaces required to 1.5. He said #6 doesn't need to be there because it is already in the rules.

There were no other comments.

**MULTI-FAMILY AMENDMENT:**

Mr. Rembold said the significant change is reducing the required amount of land per unit from 5,000 square feet to 2,500 square feet. Parking requirements are proposed to be reduced from 2 spaces per unit to 1.5 spaces per unit. He said there was a lot of language deleted because either the Planning Board deals with it during Site Plan Review or the SPGA deals with it during the special permit process.

Mr. Hankin asked what the requirement for permeable area is in 8.3.3.2 and what is the concern.

Mr. Fick said the permeable area requirement for a two-family is 15%. He said that is consistent for other residential uses.

Holly Hamer from Seekonk Cross Road said cities like Houston have a lot of flooding because there is nowhere for the water to go. We do not live in a built up urban area. She said she

doesn't think the permeable area should be so low. She said it is arbitrary to have a figure so low with no science behind it,

Ms. Nelson asked what is the down side of more permeable area.

Mr. Pachano said the permeable area works as a density control. If 50% of the lot has to be permeable that is a lot. A quarter of the lot being permeable should be able to absorb run off.

Ms. Nelson said impervious area can impact neighbors.

Mr. Pachano asked Ms. Nelson what she considers a good percentage for permeable surface area.

Ms. Nelson said 50%. She said in bigger developments State regulations kick in.

Mr. Rembold said even multi-family by-right uses require SPR where drainage would be reviewed. If 15% permeable were approved that would be the floor, more could be required. Permeable area is a density control and should be looked at that way.

Mr. Higa said he would like a special permit to be required for multi-family uses when there are 9 or more units. He said he didn't think it would be too much of a burden for applicants to go for SPR and a special permit.

Mr. Hankin said that proposal was not advertised. It can't be considered.

Mr. Higa said we are discussing multi-family we can't make that change to the Table of Uses.

Mr. Hankin said he didn't think it could be changed without being advertised because it would be a more restrictive change.

Mr. Hankin went back to the permeable area discussion saying that permeability should be dealt with as part of SPR.

#### **MIXED USE PERCENTAGE AMENDMENT:**

Ms. Nelson said the objective to change the percentage of non-residential use in a mixed use development is to qualify the percentage of the minimum level street level floor space.

Mr. Pachano said it is not a density control. He said maybe a square footage requirement could be added.

Mr. Hankin suggested 2,500 square feet of lot area per dwelling.

Mr. Pachano agreed saying it would be similar to multi-family.

Mr. Hankin said it would be consistent. It makes sense.

Ms. Nelson asked if it would be applied inside and outside of the VCOD.

Mr. Rembold suggested outside the VCOD.

Mrs. Mooney asked if that change can be made at this point.

Mr. Rembold said he believed so but he would check with Town Counsel.

Mr. Fick clarified that the change would require 2,500 square feet of lot area per dwelling unit.

Mr. Hankin said yes.

Mr. Higa said there is no line in the Table of Uses under mixed use differentiating the number of units.

Mr. Rembold said that is right. He said it doesn't qualify.

Mr. Higa said we might want an upper limit to trigger a special permit of the housing not the commercial.

Ms. Nelson asked does it make sense to put aside the amendment to next year. She said it seems like we are discussing substantive changes.

Mr. Hankin said we should put in what has been proposed so we can meet our goal.

Ms. Nelson said we will put in what we have advertised.

Mr. Rembold recapped the discussion. He said language will be added to 8.4.2.1 adding 2,500 square feet of lot area per dwelling unit for the multi-family component of mixed uses.

Mr. Hankin said that will make it consistent.

Ms. Nelson asked if there were any other comments. There were none.

## **REAR YARD SETBACKS:**



Mr. Rembold said the rear yard and side yard setbacks will be made the same under this proposal. The setbacks would be either 10 feet or 20 feet depending on the zoning district.

Ms. Nelson said the Board supported the amendment. The public comments have been that the building(s) would be too close to the property lines with the reduced setbacks. The public has commented that the reduced setbacks create too much density and that the rear yard is more important than the front yard.

Mr. Rembold said with lots that have expansive rear yards that are not being used now the setback change would not have a big impact. He said reducing the setbacks would not have a big result in housing goals.

Mr. Hankin said on Dresser Avenue, Pleasant Street and Frances Avenue there appeared to be 40 properties that looked non-conforming. He said he didn't think the setback change would radically change the character of the neighborhoods but it would make a large percentage of the properties conforming allowing for money savings for property owners who want to make changes to their property. Mr. Hankin said he does not see the down side. He said many lots would still be non-conforming.

Mr. Pachano said to clarify this change won't add to the density in any district. Properties would still have to comply with lot requirements. The change would allow for different positioning on some lots. It will not add to density.

Mr. Fick said he thinks the setback changes should be addressed zone by zone and not a wholesale change. He suggested this amendment be put off until next year.

Mr. Reed said he agreed with Mr. Fick.

Ms. Loubert said she agreed with Mr. Fick. She said there will be push back at the town meeting.

Mr. Hankin said we need to create more housing. Existing zoning inhibits that goal. If we want more housing we need to change zoning.

Ms. Nelson said there is a lot of existing built in patterns in setbacks already.

Mr. Hankin said zoning was imposed on a completely built community making 80-90% of properties non-conforming.

Ms. Hamer said if you want the change in the inner core why are you including the outer core zones of R-2 and R-4. She suggested considering the change zone by zone.

Mr. Hankin said he has no issue excluding the R-2 and R-4 zones. The focus is on the densest lot sizes. There would be zero impact in the R-2 and R-4 zones.

Ms. Nelson asked if there were any additional comment. There were none.

**NET BUILDABLE AREA:**

Mr. Hankin suggested striking the word “net” to make the language simpler. He said this change would only apply to the smallest lots. The change would allow for more use of a small lot including decks and garages.

**ACCESSORY DWELLING UNITS:**

Mr. Hankin said in 3.2.2.4 strike “more than 10% of the total lot area”. That is why we have setbacks. He said he thinks one ADU should be allowed by right not two.

Mr. Pachano asked if two could be allowed by special permit.

Mr. Higa asked if notification to abutters could be added.

Mr. Hankin said the bylaw was implemented 10 years ago as a by-right use with no notification required. He said there haven’t been many in those 10 years.

Ms. Nelson asked if there were any comments on removing the sentence referring to 10% of the total lot area. There were none.

Ms. Nelson said we should let the setbacks apply.

Mr. Rembold said if abutter notification for SPR is going to be required discuss it now.

Mr. Higa asked if a closed in porch would require abutter notification.

Mr. Rembold said 3 units or more require SPR. It would not be applicable to a two-family use and nothing for a garage or porch.

Mr. McGruer said it is not just a garage or a porch an ADU could be 25 feet high.

Ms. Nelson said a garage could be 25 feet high and it is by-right.

Mr. McGruer said this is different because it is a dwelling unit. He suggested creatively working out a way for abutter notification for SPR.

Mr. Pachano said currently an ADU can go in without abutter notification.

Mr. Hankin said an ADU is currently allowed within setbacks at 15 feet and up to 25 feet high as long as it meets the setback requirements.

Mr. McGruer said an ADU could be 25 feet high and closer. He asked the Board to be fair because all of the proposals are for taller structures closer to the property lines. The abutters don't have an opportunity to weigh in. That is not fair.

Ms. Nelson said a two-family use in all zones is by-right. You are calling out one instance and that isn't fair.

Mrs. Mooney said she doesn't understand how an ADU can be in separate ownership.

Mr. Hankin said it would be condominiumized. He said it is form of ownership all over town. It is not a zoning issue.

Mr. Rembold asked the Board to decide whether one or two ADUs would be allowed on a lot.

Ms. Nelson said she is not a fan of multiple ADUs on one lot. She said she would be agreeable to one.

Mr. Pachano asked whether we want to take the option away for people with large lots.

Ms. Hamer said an ADU on a lot could then be condoized making it a separate property. She said it becomes more commercialized and not a family enclave.

Mr. Fick said you can rent to someone not related.

Mrs. Mooney said the Town would have no control.

Ms. Nelson said the Town currently doesn't have any control.

Ms. Hamer said she thinks 2 by-right ADUs would be a hot topic.

Mr. Hankin said he agreed that it would be a hot topic. He agreed that one per lot would be agreeable.

Mr. McGruer asked about abutter notification.

Ms. Nelson said it would not be consistently applied.

Mr. Fick said the intent of the proposal is to loosen up to allow ADUs.

Mr. Hankin said the objective is to allow people to live and work here. He said it addresses the lack of housing for the local work force.

Mr. Fick said he is not in favor of the change. He said he is not inclined to support.

There were no additional comments.

### **TINY HOUSES:**

Ms. Nelson said the focus should be on the definitions. There was no public comment.

Mr. Rembold said we heard the public comment resulting in some major edits. He said the public hearing can be closed.

Mr. Hankin made a motion to close the public hearing, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

The public hearing was closed at 8:41 P.M.

Mr. Rembold suggested going through the bullets and discuss strategy for how to present what will be moved forward.

Mr. Rembold went through the changes he had:

--In the B-2 zone change the height back to three stories

--Consider the map for Stockbridge Road-Lot #30 will be the northern limit on the southern end of Stockbridge Road

There was discussion of having the zoning follow the property lines where feasible but some lots had to be split. It was decided that if more than half of the lot is in B-2 then the lot would be in the B-2. If less than half is in the B-2 the lot would be split.

Mr. Pachano said he is opposed to splitting lots.

Mr. Fick said he would like to stop splitting lots at Fairview Terrace. He suggested leaving the split between Fairview Terrace and Commonwealth Avenue.

Mr. Hankin said he wouldn't leave the split.

Ms. Nelson agreed. The zoning line could move 50 feet by special permit.

It was agreed that the zoning line would mostly follow the property lines.

The Board voted on each of the proposals.

Mr. Hankin made a motion to recommend to the ATM the Stockbridge Road proposal as amended, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Downtown B proposal, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the ADU definition clarification proposal as amended, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Design Advisory Committee proposal as amended, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the B-3 proposal as amended, Mr. Pachano seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Two-Family proposal, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Multi-Family proposal as amended, Mr. Pachano seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Ms. Nelson said for the Mixed-Use Development proposal to see whether Town Counsel will allow the density control, if he doesn't we will pass on that portion of it.

Mr. Hankin made a motion to recommend to the ATM the Mixed-Use Development proposal as amended subject to Town Counsel approval, Mr. Pachano seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Dimensional Requirement proposal to make the side and rear yard setbacks the same, Mr. Pachano seconded. Mr. Pachano no; Mr. Higa no; Mr. Fick no; Mr. Hankin aye; Ms. Nelson aye. Motion failed.

Mr. Hankin made a motion to recommend to the ATM the Buildable Area proposal as amended, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Accessory Structures & 3.2.2 Accessory Dwelling Units proposal as amended, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick no; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to recommend to the ATM the Movable Tiny Houses and creating a definition proposal, Mr. Pachano seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin made a motion to defer to a future date the WQPD clarification, marijuana processing, and the Planning Board as the SPGA for residential uses, Mr. Higa seconded. Mr. Pachano aye; Mr. Higa aye; Mr. Fick aye; Mr. Hankin aye; Ms. Nelson aye.

Mr. Hankin asked if there is anything more we need to do for the Selectboard to put on the warrant.

Mr. Rembold said he doesn't think the Planning Board will meet again before the Selectboard sets the warrant. He said the grouping and order should be set prior to the Selectboard meeting.

Mr. Hankin and Mr. Pachano volunteered to work with Mr. Rembold to set the order and grouping recommendations.

Mr. Rembold said it works for him to work with Mr. Hankin and Mr. Pachano. The goal is to make the order and grouping recommendations make conceptual and strategic sense.

Mr. Hankin said we will have graphics.

Mr. Rembold said we will come up with a list to get to the Selectboard meeting scheduled for March 25<sup>th</sup>.

Mr. Pachano asked if the Board is interested in taking on the task of limiting a particular business. He said he wanted a sense of what the Board feels about limiting commerce related to zoning.

Mr. Fick said no. Businesses are self limiting.

Mr. Hankin said no.

Ms. Nelson said the Board has historically declined limited businesses.

Mr. Fick said it might fall to the Selectboard's purview.

Mr. Pachano said we didn't set limits for banks and real estate offices.

Having concluded their business, Ms. Nelson adjourned without objection at 9:17 P.M.

Respectfully submitted

Kimberly L. Shaw

Kimberly L. Shaw  
Planning Board Secretary