

**City of Newburyport  
Planning Board  
March 16, 2022  
Minutes**

The online meeting was called to order at 6:15 PM.

**1. Roll Call**

Planning Board Attendance: Alden Clark, Beth DeLisle, Bob Koups, Heather Rogers, Bonnie Sontag, Rick Taintor, and Don Walters

Jamie Pennington arrived at 7:15.

Planning Director Andy Port and note taker Linda Guthrie were also present.

**2. Executive Session**

- a) *Pursuant to M.G.L. C 30A Section 21, to discuss strategy with respect to litigation in the matter of Institution for savings v. City of Newburyport Planning Board (93 State Street), as an open meeting may have a detrimental effect on the litigating position of the public body.*

Rick Taintor made a motion to enter into an executive session for the purpose of discussing strategy with respect to litigation in the matter of Institution for Savings v. City of Newburyport Planning Board (93 State Street). Alden Clark seconded the motion, and all members present voted in favor.

**Motion Approved.**

The regular Planning Board Meeting resumed at 7:07 PM

**3. Public Hearings**

- a) *Caswell Restaurant Group c/o Lisa Mead, Mead, Talerman & Costa LLC  
17-21 State Street  
DOD Special Permit  
Continued from 2/16/22*

Attorney Lisa Mead, Mead, Talerman & Costa LLC, 30 Green St., noted that at the last meeting the applicant had agreed to a condition in any decision the board might issue regarding the Brine sign being applied. With respect to the outstanding issue of windows, Attorney Mead said the windows proposed in 2021 at the ZBA hearing when the applicant obtained a variance for operable windows met the energy code. That window design included muntins and other features differing from the existing plate glass and received negative feedback. The applicant found more historically appropriate operable windows that appear as plate glass with the same opening, with a couple of minor changes. The fold is at 90 degrees instead of 120 degrees and they are more energy efficient than the last window design presented. The applicant reached out to Ipswich

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Glass, who in turn referred another company. Neither company makes this kind of window without muntins.

Dan Ricciarelli, Seger Architects, 83 North St., Salem, found a NanaWall operable window system whose panels have a vertical transparent weather seal. The window resembles one sheet of plate glass in the closed position. The opening is 4 ½ inch smaller than the existing opening due to a bottom rail which also has a seal. He demonstrated the single-glazed operable window profile on cross sections, showing how the top rail is hidden behind the existing aluminum header. The existing Carrara Vitrolite storefront glazing bead will be kept in place. Only the plate glass will be removed. A corner mullion needs to be installed.

Attorney Lisa Mead presented photographs of the proposed windows in use.

Don Walters asked if it was possible to show the sill at the bottom. It seems there might be an extra inch or so. Mr. Ricciarelli said Mr. Walters is correct. The window is set back about 2¼ inches so as not to disturb the original aluminum stop for the plate glass and so the window can operate on its pivot. A small matching aluminum sill will extend to the existing stops. There is a 4¼ inch style on the bottom rail including a ¼ inch gasketed gap at the base that rides in the track. The existing stop remains.

Bonnie Sontag asked if the inoperable side panel looks different from the operable panels. Mr. Ricciarelli said the panel may be a little larger but otherwise it will look the same as the operable panels.

Bob Koup asked about the corner detail where the fixed window and the operable panels meet. It seems like the proposed corner mullion comes out almost flush with the panel below the glass. Is there a way to minimize the corner mullion, such as putting a portion of it on the inside? Mr. Ricciarelli said it looks bulky but it's only 3½ inches. He would have to sacrifice the original plate glass glazing bead to bring it more inside.

Bob Koup is curious how the original glazing bead will be treated since it's not holding the glass. Mr. Ricciarelli said it's part of the original storefront system that should remain.

Bob Koup said finding ways to minimize the corner and preserve the original glazing bead is worth a second look.

Public comment open.

Glenn Richards, 6 Kent St., Chair, Newburyport Historical Commission (NHC), speaking as a resident, addressed Ms. Caswell's frustrations from the last meeting. He spoke with her in February 2021 when he and another member of the NHC told her that changing windows would be problematic. Scandia and Steak and Stein did fine with inoperable storefront windows. There's a difference between a window and storefront glazing. The Planning Board, the Historical Commission, and the ZBA represent the interests of the City and the people of the City. It's important not to take their comments personally.

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John Growitz, 149 Merrimac St., appreciates the applicant's efforts to listen to the Board and replicate something important to all of Newburyport.

Ron Dylewski, Emerson Ave., Pittsburgh, PA, supports a delay in the approval. He countered Attorney Mead's comment that the banner sign is settled. Discussion at the last meeting led him to believe the matter remains undecided. The applicant's team professed to have conducted considerable research on operable window designs. They falsely stated the previously proposed window system was appropriate when it clearly was not. He found the nano wall system in 2 minutes on the Internet. The applicant expressed frustrations over this taking over a year to resolve but they did not do the work, take the project seriously, or respect the community's fondness for the Fowle's sign. The Board should delay approval until it's known whether the window information presented is verifiable.

Connor O'Keefe, 5 Moseley Ave., is in support. He disagreed with the previous comment. A local business has been run through the wringer for nearly 2 years. What they are asking for is reasonable. He found it unacceptable that the previous commenter would disrespect the efforts of a local business and that something so limited in scope had taken over a year. He is new to Newburyport. The applicant demonstrated respect. The matter should be closed tonight.

Bonnie Sontag requested public comment be limited to what is presented tonight and speak only to the issues at hand. The application is for altering a historic storefront in the downtown.

David Levine, 15 Milk St., is in support. The window meets the expectations of the Board that there be little alteration to the effect of the historic storefront. We're not Williamsburg, we're a thriving community to which the Caswells greatly contribute. The window should be approved.

Jacqueline Levasseur, 1 Merrimac St., is in support of the proposed approach.

Public comment closed.

Bob Koup acknowledges the challenge to meet the requirements of a protected, historical façade. The NanaWall is a quality product, probably the best that can be done for an operable window system. But, without a frame, the system will have certain compromises. He spoke with the company who makes this product. They describe it as a windbreak used primarily in luxury stadium boxes and 3-season rooms, implying the likelihood of a little air and water infiltration. Visually, it meets the standards the Board seeks. He has post installation concerns, should the owner experience issues with the interior environment. A modification could be requested to address air infiltration in colder months. Is there a process for that? The building commissioner will have a lot to deal with regarding code compliance.

Bonnie Sontag said the modification request procedure is through the Planning Office who determines whether it should come back before the Board. The building commissioner said he would abide by the Board's decision because this is a special permit. He's aware this Board has no purview over the weather tightness and that we have other constraints. The Board must provide a clear justification through the general and specific permit findings and conditions, to act as guidance for the building commissioner on site approval.

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Don Walters said the Newburyport building code references the MA building code, where Section 309.3.2 says, "Replacement in Kind – when the repair of historic materials including patching, splicing, piecing-in, consolidating or reinforcing is not possible, compatible materials may be substituted which closely convey the form and design as well as the visual appearance of the existing feature." There is no requirement for replacements in kind to follow the IECC energy efficiency code. He's not convinced this is the Board's issue but rather the owner's issue. He's not heard whether the proposed glazing system is historic or replacement in kind. If it's replacement in kind, whatever that means, everything makes sense, and the proposal is acceptable.

Rick Taintor said NanaWall is a high class system and a good approach. The applicant says that the single pane replacement glass would be closely similar to the existing glass in the store front in terms of insulation. His concerns for a product that's appropriate for an exterior application are addressed. The applicant also said existing windows are problematic because people near the windows were too cold in the winter and too hot in the summer. This is the best approach to operable windows for the storefront and he suggests moving forward. There is a concern about approving something that would then lead to subsequent changes like a proposal for interior storm windows, for example. Interior storms would have the same issues regarding consistency with the historic character of the store front. He recommends a condition that any further change come before the Planning Board.

Dan Ricciarelli said the window is tempered glass which is thicker with a layer of lamination. It is single glazed, similar to the existing plate glass. There is supplemental HVAC at the windows, which doesn't currently exist. More heat and A/C directed at the windows will make people more comfortable.

Beth DeLisle said the architect suggested it may be possible to make the jamb smaller and Mr. Koup suggested putting it inside. That seems like a significant change. When will the Board know if that is possible? Is there a post there currently? Are there rails on the side of the windows? Will anything be visible on the side if they are pushed 2½ inches back and set inside the current system? Is this alteration reversible?

Dan Ricciarelli said it is reversible. Everything is constructed from the inside and can be removed. There is a 1⅜ inch gap. The 2⅜ inch gap he spoke about is to the centerline of the pivot of the window. The gap is small and needed for the windows to operate. He will work with the manufacturer and installers during construction to see if there is any matching material to close that gap, such as kind of brush. There is currently no post, just a silicon joint joining the two windows and a meeting rail for the window to seal against. It's ¾ inches as designed, but during engineering they will let us know if that can be reduced. That's a small detail given the size of the windows. He listened to Mr. Koup's concern, but it's important to hold onto the glazing stops in that plane as it will be less distracting than trying to reduce the size of that mullion. He demonstrated on the plan how rails on either edge are the same as what exists today.

Heather Rogers supports the proposal. This window design is seamless and won't distract from the historic nature of the storefront and the building.

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Bob Koup asked if nano wall would be providing the fixed glass for the corner detail. Mr. Ricciarelli said yes.

Bob Koup asked if the manufacturer's system had anything for the corner mullion in aluminum that could be made smaller and still meet all your requirements for the corner. If the system that wraps the corner is theirs, including both the operable and the fixed panels, he would work with them to minimize the sight lines of that corner mullion. He realizes the window has to come out to receive the stops but there may be a way of making it a little narrower if it were metal instead of pressure treated wood. He would work on that detail with the manufacturer.

Rick Taintor said in the nano wall video said there had to be a handle in each set of windows to start the opening process. Could the handle be made horizontal in the bottom sill so that it's less visible. The window is 4½ feet, not the 7-foot window demonstrated in the NanaWall video.

Dan Ricciarelli said the demonstration video probably showed tall, floor to ceiling glazing systems. The proposal has nothing in the glass. Everything will be in the bottom style, whose purpose is to affect the window operation.

Alden Clark said his concerns are addressed. This is a workable solution for all the concerns.

Bonnie Sontag said the Brine lettering will be a condition in the final decision. Are there plans or conceptual ideas to discuss?

Attorney Mead said the applicant is agreeable to not painting on the etched glass but doesn't yet have a plan for a method that does not damage the glass. If they can do that, a plan will be submitted to the Planning Office, who will determine whether it's in their purview or should come back to the Board.

Bonnie Sontag introduced the findings for comment. The DOD Special Permit Draft Findings refer specifically to the replacement of windows. The next to last bullet references replacement of the wall sign structural glass panels and façade materials. The Board has covered those details. There are no issues with the Special Permit Draft Findings or the General Special Permit Findings, which are about use. Special conditions will include: #1, Any change to the decision must come back before the Board for review and approval; #2, No interior storm windows because it would change the look of the store front; and #3, The Brine sign will be submitted to the Planning Office for final approval especially with regard to any elements that might affect the panels on the glass banner.

Director Port understood the signage would not be on the glass itself, and float above it.

Rick Taintor offered the wording, "This approval is limited to the window design presented to the Board and no interior storm windows or visible weather seals shall be installed without Planning Board approval of an amended special permit."

Attorney Lisa Mead confirmed that Mr. Taintor referred to any additional weather seals beyond what's already part of the product as presented.

Bob Koup didn't see a reference on the drawing for the window's visible aluminum frame finish.

Dan Ricciarelli said it is brushed aluminum.

Chair Sontag said there is no need for a condition.

Rick Taintor made a motion to approve the DOD Special Permit Application submitted for 17-21 State Street with the conditions discussed this evening. Alden Clark seconded the motion, and 6 members present voted in favor. Beth DeLisle voted against. Jamie Pennington abstained.

**Motion Approved.**

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.*

**4. General Business**

***a) Introduction of new member Jamie Pennington***

Mr. Pennington is an architect with a background in real estate, finance, and affordable housing.

***b) Discussion of major and minor modifications within Colby Farm OSRD***

Bonnie Sontag said the Planning Office notified the applicant for 13 Doyle Drive in the Colby Farm Open Space Residential Development (OSRD) of a change in the agenda tonight. The development is under an Order of Conditions from the Conservation Commission. The developer must request a certificate of compliance for the first house approved in Colby Farm which has not been finalized by the developer. The second house is underway. Therefore, any modifications to individual lots should not occur until the certificate of compliance is issued by the Conservation Commission. The application is on hold or withdrawn and will come back to the Board when the issue is resolved.

***c) Request for minor modification – 13 Doyle Drive (2019-DEF-01 and 2019-SP-08)***

Rick Taintor asked if there should be a formal vote to continue. Director Port said this is not a formal application that would trigger a vote. This is a modification that does not require constructive approval. It is up to the Board to decide if anything is major. He would carry it to the next agenda.

***d) Discussion of proposed zoning for Short Term Rental Units (STRUs)***

Bonnie Sontag said the public hearing is closed and the Board will make a report with recommendations for the City Council on the most recently proposed amendment.

Director Port said Councilor McCauley, the sponsor, is looking for parking recommendations. Mr. Taintor lists parking as the fifth issue in terms of what parking impacts are for different STRU types and locations.

Bonnie Sontag requested members provide a rationale or an example to support their suggestions this evening. Differences of opinion will be noted in the Board's recommendations.

1. Should STRUs be allowed only in properties that are the primary residence of the owner as currently proposed, or should investor-owned properties also be eligible?

Bonnie Sontag stated her support for, and the importance of, restricting this use to owner-occupied properties. It's a requirement that helps avoid, or at least reduce, the chances for any of the issues that arose during the opposition to STRUs in residential areas. If the owner is there during the rental, they'll be immediately affected by anything that will affect the neighbors, unless it is a home share where a responsible off site person will be designated. Owners take a strong interest in what happens to the property where they live. That's a benefit to the City, renters, and neighbors.

Bob Koup agrees and refers back to the first paragraph about the purpose of the amendment. We want STRUs to exist, to give owners the opportunity to take advantage of this market, but without a negative impact on the neighborhood. In the absence of regulation, STRUs have become a commercial business with a lot of parties involved including property managers, real estate brokers, cleaning companies, maintenance companies. The multiple parties have the effect of pushing the volume of units available because they're building a business. The volume of business would continue to increase if opened to outside investors. That would fundamentally change the nature of the historic neighborhoods. STRUs as a commercial enterprise and an investment for people who don't live in Newburyport is different and highlights the importance of the owner-occupancy requirement.

Heather Rogers has owned a long-term rental for 2 years. There is no record of how many long-term rentals are in town. She's opposed to a lot of the amendment because the issues addressed are not caused by the 188 STRUs, but by the long-term rentals, which are in the majority. Everybody parks on the street 365 days a year on Strong St. because the rentals don't have driveways. It's supposed to be a 2-way street but 2 cars going opposite directions can't move down the street. There are no distinctions between long-term rental police disturbance reports. There are a lot of unknowns. The problems addressed exist more in the long-term rental market.

Don Walters sees some difference between the business and residential zones. Should language say, "only owner-occupancy allowed in R1-R3?"

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Rick Taintor said the business districts aren't that big and lack much housing. The complaint is the investor-owned STRUs bring commercial business into a residential district, but that's not an issue in the business districts. He's open to Mr. Walters' suggestion but not sure how much the language would change the number of STRUs.

Don Walters said he's thinking more of the character of the real estate in the business districts compared to R1 - R3. He's flexible if the Board is not in agreement.

Bob Koup agreed with Mr. Walters and Mr. Taintor. His only concern is that non-owner-occupied units in a business district may open the market to a larger scale of STRU development, such as a whole building of STRUs. How do you restrict the number of units in that kind of situation? Or is there still language that says you can only rent one rental unit at a time?

Rick Taintor said it would mean an overhaul of the ordinance because the non-owner-occupied STRU doesn't fit into any defined categories. It would be a thorough overhaul and way beyond making modifications to the current draft ordinance. He likes the idea and appreciates the concern Mr. Koup expressed. It's more than the Board wants to recommend to the City Council at this time.

Don Walters said currently the ordinance is written to preclude anything but owner-occupied units. He thought that's why it's a question for consideration.

Rick Taintor said he put it up for discussion because a number of comments from people supportive of STRUs were asking why we took away the path for investor-owned STRUs. It's something to think about. Mr. Koup's comments, however, has convinced him otherwise.

Alden Clark agreed there's a different mindset with owner-occupied compared to an investor. Would there be push back on a situation where it's not owner adjacent but on 2 adjacent lots? The owner resident is nearby but they would be excluded by this language. He doesn't know how to delineate that in the ordinance.

Beth DeLisle said, like Ms. Rogers, she is concerned about the lack of data. How many STRUs are on Plum Island (PI) versus downtown? While she sees some distinction between PI and in town STRUs, in other ways she doesn't. The rationale for owner-occupied STRUs is to keep investment companies from taking housing stock off the market rather than for keeping renters from creating a disturbance. Disturbances can be dealt with through other means. She is not sure that only allowing investor owned properties on PI is the right answer.

Bonnie Sontag said PI has a history of traditional STRU practices, but the mainland has a different history. Everyone is concerned about commercial activity going on next door to them. That's the basis of differing regulations. The data Ms. DeLisle asks about exists with the 3<sup>rd</sup> party monitoring service Granicus, who displayed a screen shot of that day's STRUs at a City Council meeting last week. The 100 unique rental units were clustered mostly in the south end. Granicus can do that at any point in time to know what's rented.



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Heather Rogers suggested incorporating the idea of allowing STRUs only if the owner is a resident? Residents are less likely to allow a ruckus in their own properties.

Bob Koup said it places a burden on the neighbors when the owner is not on site. Owners are the first line of response when there's a problem, and that doesn't work if an owner is in another part of town or up the street. Neighbors are not supposed to be affected. That's why it's important to limit STRUs to owner-occupied, which in turn limits the number of issues for everybody.

Don Walters agrees with Mr. Koup. An owner-occupied STRU sees their neighbors' day-in and day-out. That's not true to the same degree if you're 4 streets away.

Heather Rogers doesn't see the difference between Mr. Koup's point and long-term rentals. Who's monitoring long-term rental disturbances when the owner lives in New York?

Bob Koup said the fundamental difference is that a long-term renter is part of the neighborhood and known by the neighbors precisely because they're a long-term resident in the neighborhood. That's different from a weekend, transient visitor with no stake in the neighborhood and no knowledge of the neighbors. That extends to parking where a neighborhood is a self-policing environment.

Heather Rogers would feel more comfortable if she saw the data of problems and issues with STRUs compared to long-term rentals. There are no facts that lead members to solutions.

Bonnie Sontag understood. When the Board started talking about this there were few known problems, but when City Councilors dug more deeply, they discovered there were a lot more of these units than they thought. The impetus for going forward was to get ahead of the problem before there were too many issues and the City wanted to take advantage of the income. The City Council agreed to put an initial regulation in place to start legalizing STRUs to allow the City to track what's going on, see how the regulation worked, and start taking in fees on units being rented. There's no time to get that data to move this along in the short term.

Heather Rogers asked if the problems really exist or is it a case of one or two incidents?

Bonnie Sontag said the ordinance is meant to make STRUs legal rather than to solve problems. All the public comments identified plenty of people who are doing this now who have no problem with the proposed amendment.

Beth DeLisle asked if there is any way to grandfather people in who are already doing this? Director Port said the City of Salem has an STRU provision wherein operators of STRUs that were in existence before the ordinance was in effect are eligible to apply for a permit to maintain that usage as a mechanism where they might not otherwise meet the applicable criteria of the ordinance. That's not in the current draft.

Beth DeLisle said that idea is worth thinking about, especially for people who have been doing this, don't have any complaints, and there are no problems in the neighborhood, even if the unit isn't owner-occupied.

Alden Clark said that since STRUs are not legal currently, traditional grandfathering doesn't come into play. You would need a special provision to grandfather the activity.

Bob Koup said starting in an environment of making exceptions to an ordinance makes it open to constant interpretation. He preferred starting with some guidelines to establish the market around and letting it evolve from there. If existing STRUs can meet requirements, they can continue. Creating exceptions opens the process to chaos.

Beth DeLisle suggested an exception that says, "existing STRU owners have to apply by a certain cut-off date after which if they don't meet the guidelines, they are not grandfathered in." You can't get ahead of the market if the market has already started.

Bob Koup had a problem with the word "grandfathering." That means you have units that don't meet requirements and units that go through the review and licensing process that do meet requirements. That creates issues in the end.

Beth DeLisle disagreed. She said it could be done in a way that would limit exceptions. For someone who has been doing this without problems to hear they can no longer do it is difficult.

Bonnie Sontag would want the criteria for exceptions to relate to how the STRU is being operated. If you don't meet the zoning ordinance criteria, what is the criteria for exceptions to the rules? How do you regulate the exceptions in a way that's consistent with new applicants who have to meet the criteria and are owner-occupied?

Bob Koup said there would be 188 STRU exceptions. Everyone will apply to be grandfathered. Whatever exists for parking issues will be around those 188 units. Whatever exists for owner-occupancy issues will be around those 188 units. We haven't changed anything by allowing 188 existing STRUs to operate outside the established rules. How would that work?

Beth DeLisle suggested there could be certain requirements they have to meet, such as parking. If they demonstrate an issue- and complaint-free history, there should be an avenue.

Rick Taintor addressed the question of whether it's appropriate to allow investor-owned STRUs that are owned by Newburyport residents but not those that are owned by nonresidents. This implies that someone who lives closer to the property will do a better job. It runs afoul of a fundamental principle of zoning, which is that you can't distinguish what people can do with their properties by where they live. Grandfathering or vesting applies to situations that existed prior to the existence of zoning. Many properties on PI were operating as STRUs before the City adopted zoning, but there are not too many on the mainland. Those could be vested from the zoning ordinance but would still need to follow the licensing ordinance and become licensed to continue. Cities often provide an amnesty period when they start enforcing a new ordinance to give people a chance to come into compliance. It's typically done when a community starts to regulate in-law apartments. An amnesty period is worth considering for mainland STRUs. Once the licensing ordinance is adopted, a lot of the 188 existing STRUs are going to disappear because many people don't want to pay the associated taxes and fees, although not the STRUs on

PI. Vesting on PI will be a matter for the Licensing Commission. Consideration of an amnesty period of a year or so would allow things to become regularized. That would take care of public comment questions that asked what happens to people who have already signed leases.

Bob Koup asked if PI was already exempt from the proposed STRU regulations.

Rick Taintor said PI is mostly exempt from the proposed STRU zoning, but still have to go through licensing.

Don Walter agreed with Mr. Koup regarding the idea of grandfathering. His vision is that each of the recommendations will indicate that 2, 3 or more members were in dissent. He expects those dissenting will articulate their alternate views.

2. Should STRUs require SP approval in some zoning districts where the proposed ordinance allows them by P?

Bonnie Sontag said initially, STRUs were to be permitted (P) in every appropriate district. The City Council came back with everything by special permit (SP), which has now become SP in High Street districts A and B and permitted in the other appropriate districts. It's not permitted in the Conservation district.

Alden Clark would return to permitted in all appropriate districts. He would allow STRUs by permit in the Conservation district, the WMD and the WMU districts so as not to exclude any residences.

Don Walters agreed.

Rick Taintor said a SP decision for the High Street districts involves a public hearing. It would be difficult for the ZBA to deny a SP in those districts. It's an additional process for properties in those districts. He agrees with Mr. Walters. STRUs in the High Street and Ag/Con districts would have less neighborhood impact than in the other districts because of the larger lot sizes and available off-street parking. He supports making STRUs permitted (P) in High Street, Ag/Con, WMD, and WMU districts rather than by special permit.

Alden Clark and Beth DeLisle agreed STRUs would not likely have a negative impact on the activities in those districts or the people living there.

3. Do all three types of STRU raise the same concerns about parking impacts, or are some types of less concern than others?

Rick Taintor said there are parking differences with different STRU types. Parking has no impact or a minimal impact on a neighborhood with a home share. Owner adjacent means the owner is home. There's no additional impact above the long-term rental parking issue raised by Ms. Rogers. However, when you rent out a room in your house there is an additional parking impact. He suggested a parking requirement per guest room leased for limited share rentals only.

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Heather Rogers doesn't see STRUs as causing a parking problem when guests are here only over a weekend. The street is quiet again during the week. Parking issues are caused by residents who live here year-round in single family homes and long-term rentals. There is no data on driveway size versus registered cars.

Don Walters agreed with Mr. Taintor. The language can't cover enough specificity to address every situation. He recommended following the 90-10 rule. A long-term rental unit could have one family but in the limited share STRU you could have a car for each bedroom rented. That will exacerbate current parking. In the south end and parts of the north end there is no off street parking for residents. STRUs in these locations will have a parking impact unless they can follow the requirements of the draft ordinance as currently proposed.

Bob Koup said 1 car per bedroom matches up with rooming houses and other requirements in town. That's where this discussion started. He agrees with Ms. Rogers that parking is a significant issue in Newburyport. All the STRU situations described contribute to that. The potential for STRUs to create more of a negative impact exists because parking is already a challenge. Parking needs to be handled differently than what's already happening. As part of the fabric of the neighborhood, a long-term renter fits in with the parking scenarios on the street. The short term renters coming in have no concern for any of the existing parking patterns. There's enough of a potential for it to be a negative. It's prudent to maintain the off street parking requirement.

Heather Rogers said an earlier statement was by not grandfathering pre-existing STRUs, the majority of them may shut down. She understands not having a stake in the neighborhood, but a shortcoming is that the ordinance will be responsible for shutting down one of the biggest variables that keeps downtown going. We need tourists for the economy and there is no hotel.

Bonnie Sontag said a limited share can rent up to 3 bedrooms at a time and requires 1 parking space per bedroom. Most homeowners need 2 parking spaces for 2 cars and often use the street for one of them. An alternative idea for limited shares would be if a homeowner is not using the street for any parking because they have only one car and one off street place to park. They could rent one bedroom as an STRU and use the street for parking one guest car. The STRU application would indicate there is only one homeowner car. If a second car should be registered at the address, the homeowner would be in violation of their STRU license.

Don Walters asked if additional parking requirements would need to be added to the licensing process for the City to know if another car was registered at the address?

Rick Taintor said parking has to be in zoning as decided by a court case in Barnstable.

Bonnie Sontag said parking remains in zoning and the STRU zoning application is approved before the licensing application.

Don Walters said if the licensing renewals are annual with no special permit, wouldn't something about parking need to be on the licensing application? Once approved, would it be grandfathered forever?

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Bonnie Sontag said no. The zoning determination is set up to be reviewed every 3 years.

Rick Taintor said the current draft says the zoning approval is annual, at the top of page 2. We would have to deal with parking in the zoning.

Director Port reminded everyone that, given the relationship between the zoning and licensing ordinances, the licensing ordinance would be tweaked to parallel any adjustment in the zoning prior to adoption. The Licensing Commission is coordinating with the Planning Office and the zoning administrator.

Bob Koup is curious about the one allotted parking space on the street when streets are a free market. The question is, do STRUs with multiple bedrooms and multiple cars disrupt the free market pattern that is established by the neighborhood. He agrees with Mr. Taintor that the home share does not need a parking restriction. The other two STRU types have the potential to exacerbate an established parking problem.

Alden Clark also did not know we were entitled to a parking spot on the street.

Bonnie Sontag said in dense neighborhoods with no off street parking it is accepted that they are going to park anywhere on the street. It has been accepted that there are 2 parking spaces per house. There is an impact on the neighborhood, but not any additional impact if I did not have 2 cars. Her thought is to try opening more opportunities to rent with this idea.

Alden Clark said Chair Sontag is suggesting we ease the restriction of 1 space per bedroom.

Jamie Pennington said the way it's written disqualifies a lot of STRUs that he knows about.

Bob Koup said commercial uses are not allowed in the south end R1 and R2 neighborhoods. If allowed, you'd have to provide off street parking. STRUs feel more commercial the way they're operating in Newburyport. That generates more cars. Nothing that caps the number of STRUs in a neighborhood even with ordinances in place. If there are a number of units around you, the commercial activity would have quite an impact on parking. The market is driven by tourism and the local economy, supported by businesses involved in real estate. The market will tend to expand, making it more like the commercial enterprise that is excluded. STRUs will not be isolated situations. They will be woven into certain neighborhoods and that brings the potential to create significant parking problems.

Heather Rogers doesn't share the concern of an abundance of STRUs causing an explosion of problems. Property values are so high that the numbers don't work. A 4-bedroom STRU with a driveway on Boardman St. is on the market for \$750,000. You couldn't buy that and meet the monthly mortgage with STRU income. It's not profitable. Property values are not going down.

Don Walters supports the parking requirements. It's important to have a vibrant downtown, but that's not in the purpose statement. Perhaps the purpose should be reconsidered. The purpose talks about ensuring potential negative impacts to residential properties, etc., such as traffic, "are

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mitigated to avoid adverse impacts on the overall neighborhood character or property values.” Mitigate doesn’t mean eliminate. That provides leeway. He is conflicted about the purpose. He would change the wording to, “does not exacerbate.”

Bonnie Sontag would relieve the restrictiveness on 1 parking space per bedroom for limited share STRUs, such as 1 parking space for any number higher than 1 bedroom, for example. She’s uncomfortable with 1 parking space per bedroom for limited share STRUs.

Alden Clark suggested eliminating the 1<sup>st</sup> bedroom in the count. Only the other bedrooms could count in a parking requirement. If you only rent 1 bedroom, you don’t have to worry about parking. But you have to provide off street parking if you have multiple bedrooms for rent, whether they’re rented or not.

Bob Koup said he prefers to flip that idea. Start with a requirement to provide off street parking until you hit a certain number of cars. For example, if you rent 1 bedroom, you have to provide off street parking. If you rent 1-4 bedrooms and can only provide 1 off street space, the overflow goes on the street. He’s not in favor of that, but any compromise formula should start with the off street parking requirement. Then neighbors end up monitoring problems. That’s the challenge.

Alden Clark said providing the 1 off street spot is the difficult part for the south end.

Rick Taintor suggested creating 2 levels of limited share STRUs, defining them as different uses. A 1-bedroom STRU would not be required to provide an additional parking space on site. A multi-bedroom STRU would be required to provide 1 parking space per 2 bedrooms rented. Under that scenario, a 2-bedroom STRU would be required to provide 1 parking space. A 3-bedroom would be required to provide 2 parking spaces. Language might be revised to say, “A short term rental licensed for only 1-bedroom doesn’t have to provide a parking space but everything else does.”

Bonnie Sontag and Alden Clark liked the idea.

Bob Koup asked if that idea would be in addition to the owner’s parking?

Rick Taintor said the last language says, “if an owner complies with the zoning.” If an owner has 2 off street parking spots, they will need an additional parking space for that second bedroom. We’re also talking about vesting non-conforming uses. If a homeowner has a 1-car driveway they are still vested to be non-conforming. We are not asking them to provide that space plus a guest space. The Board was going to be writing that up according to the last notes.

Bonnie Sontag said that’s generally agreed.

Rick Taintor said the vesting is different than if you operated an STRU prior to zoning. Many houses in the south end are non-conforming because they have no off street parking. A 1-bedroom limited share would not have to provide 3 parking spaces under the current draft, but only 1 parking space for the STRU bedroom. Otherwise, it’s improbable that there would be a single STRU in the south end. It was originally written as 1 parking space per bedroom in

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addition to that required for the residential use. That would be 3 spaces. His suggestion continues to vest the non-conforming use but still requires the STRU off street parking space.

Don Walters asked if a house with no parking and no driveway, that rents out 1 of the bedrooms, has to provide parking?

Bonnie Sontag said if with no off street parking for yourself, you can't provide an off street space for your 2 STRU bedrooms.

Don Walters said, in that case, with Mr. Taintor's suggestion, you could only rent out 1 bedroom, not 2.

Bonnie Sontag asked if a parking arrangement around the corner is off the table?

Rick Taintor said that's not part of the ordinance.

Bob Koup said the problem with that is human nature is not going to drive around the corner if they find a space on the street. It falls back to the neighborhood, so we steered away from that idea.

Jamie Pennington said there are already 2 provisions in parking ordinances that allow off-site parking to satisfy the requirements.

Bonnie Sontag said that's only downtown and doesn't reflect the rest of the City. She recommended a special meeting to finalize the report for City Council. The Board agreed to meet on March 24 at 5:30 PM. Beth DeLisle isn't available.

Rick Taintor would capture the various points of view from this meeting. People could send him clarifying statements if they desired.

***e) Approval of Minutes***

Rick Taintor made a motion to approve the minutes of 3/2/22 as amended. Beth DeLisle seconded the motion, and 7 members present voted in favor. Jamie Pennington abstained.

**Motion Approved.**

***f) Other updates from the Chair or Planning Director***

Director Port said an in person meeting is scheduled at Senior Center for April 20.

The DHCD guidance for MBTA communities April 13 meeting with City Council. The expectation is that as-of-right housing around the MBTA station will expand. There will be a presentation overview of what the state expects, discussion on how it impacts Newburyport, and

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then wait for the DHCD to issue revised guidelines. It's a question of whether Newburyport wants to change zoning for more grant funds. He expected other stakeholders to attend.

Rick Taintor suggested adding the Colby Farm situation above to an agenda to talk about how to handle it. Director Port agreed.

**5. Adjournment**

Alden Clark made a motion to adjourn. Bob Koup seconded the motion, and all members present voted in favor.

**Motion Approved.**

Meeting adjourned at 10:25 PM

Respectfully submitted – Linda Guthrie