

**City of Newburyport
Planning Board
January 20, 2021
Approved Minutes**

The online meeting was called to order at 7:01 PM.

1. Roll Call

Attendance: Alden Clark, Beth DeLisle, Anne Gardner, Leah McGavern, Bonnie Sontag, Rick Taintor, MJ Verde, and Don Walters

Absent: Tania Hartford

Andrew Port, Director of Planning & Development and Katelyn Sullivan, Planner, were also present.

2. Public Hearings

- a) *Institution for Savings in Newburyport, c/o Lisa Mead, Mead, Talerman & Costa, LLC
93 State Street
Site Plan Review (2020-SPR-02)
ITIF Special Permit (2020-SP-01)
DOD Special Permit (2020-SP-09)
Continued from 11/4/20*

The applicant requested a continuance.

Rick Taintor made a motion to continue the DOD Special Permit (2020-SP-05), ITIF Special Permit (2020-SP-01) and Site Plan Review (2020-SPR-02) for 93 State Street to February 17, 2021. MJ Verde seconded the motion, and all members present voted in favor.

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.

3. Other Business

- a) *32 Union Street Request for Release of Covenant*

Director Port said the request is straightforward for this relatively small subdivision on Union Street and Beacon Avenue, with a few remaining loose ends for landscaping. The Planning Office recommends approval.

Planning Board
January 20, 2021

Bonnie Sontag said everything seems to be order. The agreements with 32 Union Street and 7R Beacon Avenue owners are either signed or in progress.

Ann Gardner made a motion to approve the request for release of Covenant for 32 Union Street and 7R Beacon Avenue and authorize the Planning Board Chair to sign the related Release of Covenant. Alden Clark seconded the motion, and all members present voted in favor. Alden Clark seconded the motion, and all members present voted in favor.

b) Approval of Minutes

Alden Clark made a motion to approve the 1/6/21 minutes. Rick Taintor seconded the motion, and all members present voted in favor.

Motion Approved.

c) Potential zoning amendments and open discussion 2021

Bonnie Sontag said a Planning Priorities Subcommittee meeting will be scheduled by Planner Katelyn Sullivan in a month or two when Ms. Hartford is available to go over procedures. The subcommittee meets Monday to go over some research and may bring suggested priorities back to the whole board.

Bonnie Sontag said Councilor Shand will be sponsoring the board's revised VI-C. Director Port said there's a change in membership of the Planning & Development Committee. Councilor Shand is still the chair with Councilor Eigerman and Council Wallace as the other two members.

Director Port said he's been working with Jennifer Blanchet and Councilor Eigerman on packaging up some housekeeping changes and some language improvements from the re-write on Use Regulations and Dimensional Controls. Breaking down the R2 District into two subdistricts is more substantive and will come forward as a separate amendment at a later date.

Bonnie Sontag asked if the zoning changes would go to the Planning & Development Committee for a joint public hearing like other zoning amendments? Director Port said yes. It would make sense to pull in Councilor Shand for her committee's feedback.

Ann Gardner asked if the licensing aspect on Short Term Rental Units (STRUs) is under review by the City Council's Licensing Committee. Director Port said yes. The Licensing group was unable to schedule any meetings on it in 2020 the way the Planning & Development Committee and Planning Board did, and STRUs is still under review by the Planning & Development Committee as well. If there is to be progress on STRUs, we need to dispense with the idea of having a physical meeting. We have some feedback from the Licensing Committee Chair, but the Licensing committee has not discussed the amendment. Their members are Councilor Devlin, Chair, Councilor Tontar, and Councilor Lane.

Planning Board
January 20, 2021

Rick Taintor asked if the new FEMA flood plain maps have been adopted yet? Director Port said we adopted the maps a couple of years ago. We will be updating that section again relative to language and housekeeping updates. We are in good standing with our provisions right now.

Bonnie Sontag understood there had been a change in state regulations for the adoption of zoning amendments to requires a simple majority. If that is true, did the City Council have to decide to do it that way before it goes into effect?

Director Port said he was not aware of a legislative change to 40A.

Rick Taintor believed the threshold changed for housing-related zoning changes to encourage affordable housing. Bonnie Sontag asked how they would determine if zoning legislation would affect affordable housing if it's buried in something else, we're doing. Rick would find a copy of the legislative change and distribute it.

Director Port said Newburyport did not submit zoning regulation changes to the Attorney General's office for review as part of the adoption process the way some cities and towns do. In Newburyport, the sticky point is density and where density is acceptable.

Bonnie Sontag asked whether a revised Waterfront West zoning amendment would require a simple majority because it revolves around housing density? Director Port said it depends on the rest of the content for that section. The housing component might be eligible for a simple majority but there will be other pieces that go above and beyond housing and may still require a two-thirds majority vote. We can consult with KP Law on that.

Rick Taintor read a portion of the proposed legislation that described lowering the required vote from a two-thirds majority to a simple majority for zoning ordinances that involve multi-family housing or mixed-use development as-of-right downtown. He did not think it likely that anyone would bring forward an as-of-right proposal for Waterfront West.

Director Port said even the 40R by the train station, while it did become an as-of-right overlay, still has design controls. He agreed that it would be unlikely for City Council to adopt something that is as-of-right for as sensitive an area Waterfront West.

Bonnie Sontag said the VI-C has an affordable housing component in terms of contributions. Director Port said he didn't think VI-C would pass muster for the simple majority threshold. To have something as- of-right in other areas of the City comes down to local political support for a streamlined permitting process that doesn't give much discretion to the Planning Board. He is proceeding under the assumption that multi-family dwelling in the downtown area would still require a two-thirds majority.

Leah McGavern asked how homeowner's on Plum Island (PI) might be impacted in years to come by the re-zoning that is in the works for PI.

Director Port said rather than looking at a structural change, he is trying address PI in the re-write by updating ordinance language to provide guidance to the ZBA when they are looking at

Planning Board
January 20, 2021

applications. The guidance says that added square footage is potentially detrimental. The amendment would allow folks without any more complications to raise a structure up on pilings but hopefully not add additional square footage or bedrooms. His proposed change in zoning language says further growth on PI continues to put public and private infrastructure at risk. Rather than say expansions are outright prohibited the language recommends the ZBA come to the finding that those things are problematic for the district. There is a provision under state law that allows people with one- and two-family homes to come before the ZBA for modifications even to non-conforming structures. Proposed language goes to the City Council in February, but it's hard to say how much debate there will be or when it would come to a vote.

Leah McGavern said in some ways that hurts the person who owns a tiny little cottage who probably can't afford to put the house up on pilings. Director Port said it is more problematic for the City to allow growth even though there may be individual cases where a property owner may benefit from having expansion rights.

Alden Clark asked if there is a zoning map that show a Flood Plain Overlay District. Director Port said yes and directed Mr. Clark to the interactive GIS MIMAP on the Planning & Development website.

Bonnie Sontag said the February 3 meeting has a minor site plan review at 177 State Street. That's the property that runs into Newbury. Director Port said the peer review for that is underway.

d) Other Updates from the Chair or Planning Director

4. Adjournment

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

Motion Approved.

The meeting adjourned at 7:35 PM.

Respectfully submitted -- Linda Guthrie