

**City of Newburyport
Planning Board
March 3, 2021
Approved Minutes**

The online meeting was called to order at 7:00 PM.

1. Roll Call

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

Beth DeLisle and Tania Harford arrived at 7:10 PM

Absent: Anne Gardner

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

2. General Business

a) Request for minor modification – 16 Duffy Drive (2017-DEF-01) and (2017-SP-05)

Architect Scott Brown, 48 Market Street, said Evergreen Commons homeowners Brian and Lori Keefe propose to add a bedroom above their garage. The renovation is challenging because this home design is not structurally set up for an addition over the garage. The design mimics the home's gambrel roof. He demonstrated on elevation drawings the new front, side, and rear views. The footprint drawings showed no change to the 1st floor and under 25 additional sf on the 2nd floor. He requested a minor modification.

Bonnie Sontag asked how far the addition extends beyond the current garage. She read from the condition, "Garages, whether attached to the residential unit or detached, shall be placed so they are recessed at least 5 feet from the front building wall of the house."

Scott Brown said the dormer is pulled back from the face of the garage at least 1 foot without extending beyond the garage. The delta between the house front and the garage front is about 5 feet. He demonstrated on the plan the only change in plane at the rear of the house.

Director Port said the Office has no objection and recommends approval.

Rick Taintor asked why the lower level stairs are flipped in direction on different drawings. Mr. Brown said that's a mistake in the elevation drawing.

Rick Taintor made a motion to deem the request minor and approve the request for minor modification for 16 Duffy Drive (2017-DEF-01) and (2017-SP-05). Alden Clark 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.

b) Approval of Minutes

Rick Taintor made a motion to approve the 2/17/21 minutes. Beth DeLisle seconded the motion, and all members present voted in favor. Don Walters abstained.

Bonnie Sontag said the recordings are helpful for resolving questions.

Motion Approved.

c) 2021 Planning Updates

Storey Avenue: Rick Taintor said he's gathered information, mapping, and sample ordinances and shared the information with Mr. Clark and Ms. Verde. The team will identify which parcels have redevelopment or expansion capacity and which ones do not, then meet in a couple of weeks to share findings in preparation for a draft report for the June meeting. It may be helpful to have discussions with key property owners in the area. He made a list of ideas that might relate to area zoning such as mapping potential, Master Plan goals, different ways to look at zoning, and area constraints, such as the state highway, established patterns, ownership, public infrastructure, and identifying stakeholders. Other than perhaps allowing mixed-use as-of-right or by special permit, there's not a lot to do with zoning. It's a matter of determining initial goals and strategies, figuring out who we have to talk to as a group, and a creating a public process to understand property owner constraints and their goals. We can refine the outline guideline in the Master Plan, and identify some things that make sense, but talking to property owners to understand their constraints and goals will be key before recommending any zoning changes.

Design Standards: Leah McGavern said she and Chair Sontag had a general conversation to think about standards for the whole City, identify different neighborhoods and what their standards could be, and what the process for passing design standards would look like. Chair Sontag will write up references from the Master Plan. Mr. Taintor gave them a large number of examples from other communities. They preliminarily agreed to focus on a subset of the National Register Historic District. Ms. McGavern wants to get clear on what the objective is.

MJ Verde said the Zoning Advisory Committee (ZAC) discussed design standards. Where did that conversation go?

Director Port said the zoning rewrite budget didn't include enough funds for writing design standards and we decided to phase it in when we could find support for the funding. There was agreement that it's a gap that needs to be filled. The Demolition Control Overlay District (DCOD) is one level of protection for the majority of the National Register historic structures but it lacks design standards. It will come down to what level of detail has political support to pass

with a 2/3 majority vote. It may be a lower level and a certain subsection of the City, rather than the whole DCOD or Downtown Overlay District (DOD).

Tania Harford said there are grant funds that would pay for design guidelines. Salem used Historic funds. Their guidelines are posted online. The MA Downtown Initiative at Department of Housing and Community Development (DHCD) also has annual funding rounds.

Director Port is aware of the grants and agrees the City should go after them. Some things aren't applicable. The Downtown Initiative won't help with the more substantial DCOD area.

Bonnie Sontag said this is a feasibility study and not a funding issue until we figure out if, what, where, and how. It's good to know everyone's on board with applying for funding in the future.

Director Port said it might be possible to talk to the Community Preservation Committee (CPC) about funding if there is local support for it. He would be happy to work in on that in conjunction with the team. Bonnie Sontag said that wouldn't be until this time next year.

d) Other Updates from the Chair or Planning Director

• Origins of zoning amendments

Director Port said a recent City Council meeting discussion about a zoning amendment raised the idea of whether the Planning Board should be the entity that zoning changes potentially come from. There is a statutory role for the Board in making recommendations on zoning changes and it's appropriate in your permit granting role, as it is with the ZBA, to recommend something that needs to be addressed. The references in the state statute and in the Adoption section of the City's Zoning Ordinance makes it clear the Board has a key role in proposing zoning amendments. They should not only originate in the City Council because of the diversity of understanding of land use issues amongst the Historical Commission, the Planning Board, the Conservation Commission, etc.

Rick Taintor said his experience is that primarily planning boards submit proposed zoning amendments. He asked if the Board were to submit a proposed zoning amendment, would the public participation process be the same as it is now where the City Council submits it to the Planning & Development Committee, and a joint public hearing takes place? Should there be an earlier public hearing process to solicit input from the public before the Board submits a proposed zoning change to City Council?

Director Port said it may depend on the type of amendment being discussed. Some amendments are relatively minor, and some are more substantive. It makes sense to follow the same process that's outlined in our ordinance. He has worked in towns where the planning board has a totally separate public hearing. It's good that Newburyport has a provision to require a joint public hearing to ensure back and forth dialogue. The City Council has a local ordinance that nothing can move forward unless it has a sponsor. That's where this issue came up, along with the question of whether the local law overrides state law about where zoning ordinances can originate. It's important the Planning Board recommend changes where it's needed, just as the

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Conservation Commission recently recommended changes in their regulations. We should all comb through the regulations and provide updates where a gap that needs to be filled is noticed.

Rick Taintor asked if Director Port would be asking the Board to sponsor any zoning changes or if he is still seeking a councilor sponsor for items he wants to bring forward.

Director Port said that depends on the issue. He plans to get the ZAC back together to pick up where they left off to bring forward some of those pieces. Because of the overlap between boards and committees and limited staff time for coordinate all the feedback, sometimes it can become hard to reach a final document with a people involved. The Office believes it's important to focus on one section or chunk at a time to get something done rather than try to do the entire zoning ordinance at once. That wasn't realistic, given that we spent a year on Short Term Rental Units (STRUs) and 2 years on marijuana. Some things are complicated. It's easier to break them apart such as the housekeeping amendment to clean up language that the Office will submit in March. Then he would like to focus on more substantive things in the rewrite. The Plum Island Overlay District (PIOD) is a substantive long-term land use issue the City needs to look at sooner than later. The design standards is a regulatory gap that can be filled because the DCOD doesn't address that for additions or modifications. But, he doesn't know how many substantive issues are going to be dealt with in the next 6 months or year other than the STRU amendment. The City Council has asked whether it makes sense to have substantive issues via Zoom meetings. Their thinking is that there might be more substantive input with in-person meetings.

Bonnie Sontag said it might be advisable to bring in a councilor or two, before finalizing a draft, to work with the Board on something that fills a gap or is on our planning list that we want to become an amendment. The Board is not as effective when we work like the City Council does with a, "here's a finished draft, please sponsor it so we can have a joint public hearing." Developing amendments with a councilor could bring more understanding and create a comfort level. When zoning amendments come from a councilor out of the clear blue and we have no idea that it's coming, there's no opportunity to talk with the councilor informally. The only input the Board has is during a joint public hearing and that's frustrating.

Rick Taintor wondered if the Planning & Development Committee could be involved earlier in the process. Typically, they don't look at anything unless it's referred by the City Council, but he didn't know if that was a requirement. It would be good to get on their agenda. We might find our sponsor that way.

Chair Sontag said years ago we worked informally with the Planning & Development Committee. They could be a resource to us. Director Port suggested a quarterly or 2x a year meeting with Planning & Development Committee. Heather Shand is the chair now.

- ***Plum Island Overlay District (PIOD) – zoning and development permitting***

Director Port said there's been discussion internally for a number of years about the way Plum Island (PI) has developed over time. The Climate Resiliency Plan presentation included the issue of sea level rise that is projected to increase and cause more flooding on PI. The City is erecting a revetment to protect the wastewater treatment plant. More protective measures beyond that are

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planned. Own land use regulations are not consistent with best practices. In this instance, more areas on PI will be inundated more regularly in the years to come. Erosion happens routinely because it's a barrier island. PI is comprised of hundreds of tiny lots. More growth puts public and private infrastructure in harm's way. Raising structures and limiting footprint expansions are reasonable because we know conditions will get worse. When one PI home becomes inundated, approximately eighteen houses have to be shut off because they're all connected within the sewer system, unless they install extra valves. It's a complicated sewer system. We want to allow people to renovate homes and raise structures out of the flood zone, but as a practical land use matter, we need to pause horizontal expansions, extra bedrooms, extra bathrooms, and new development because more people equates to more people in hazard's way because of sewer inundations that cause area-wide shut-downs. It seems unwise to continue that pattern.

Director Port said the PIOD was adopted with the understanding between both communities there would be limits to growth. That was part of the administrative consent order issued with the DEP for the sewer system. The regulations have allowed substantial growth. A zoning provision amended in 2011 allows things on to be permitted more quickly and conveniently on the island than on the mainland. If someone wants to expand now, they don't need a variance because it can be done by special permit. There's no need to demonstrate a hardship. While there are only a handful of unbuilt lots, it's the cumulative development puts a strain on the island and the infrastructure. Some type of public process is needed to look at the issues before a zoning change can be brought forward. It won't be in the coming months or even this year.

Director Port said the Town of Newbury received a \$300,000 Municipal Vulnerability Preparedness (MVP) grant to pay consultants to illustrate the fiscal impact of sea level rise on the island as a whole at in a couple of public meetings scheduled for this spring or summer. He recommended following Newbury's MVP study. He and Julia Godtfredsen are liaisons to the group. He displayed images of PI storm surge damage from the Climate Resiliency Plan. In discussions, it was apparent that our land use regulations are inconsistent with this policy document.

Bonnie Sontag asked if the City Council actually sponsored an amendment and it's on hold now?

Director Port said he spoke to Councilor Eigerman last year about it. There was some interest, but he suggested finding another councilor. Councilor Connell has an environmental background and agreed to sponsor it. The amendment went into the packet, but Councilor Connell pulled it from the docket at the last minute because he felt it wasn't ready to send to committee. The assumption was it would go to committee that night. Now there's no formal process for any PI amendment. He didn't think it would happen this year, but the MVP work will stimulate discussion and provide context for the amendment. Revising the Conservation Commission regulations is a related sea level rise issue did go to committee. That amendment speaks to not expanding the footprint of structures in FEMA a flood hazard zone. He showed several images from the Resiliency Report.

Leah McGavern was struck by how plastic bags were left on the beach to wash into the open.

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Director Port said no permanent structure can be built out there by regulation. These plastic bags and often coir bags are allowed and used to create a berm in front of houses.

Don Walters said if the wastewater system on the island is maxed out, irrespective of zoning you would not be allowed to increase the size of a building.

Director Port said it is not the system capacity, but the number of homes affected when there's a shut off because they're connected. The system was designed to accommodate the addition of only 1 bedroom, for a total of 3 bedrooms per house. They are not keen to add more bedrooms or people to the system knowing that the sewer system might more frequently need to be shut off.

Bonnie Sontag said VI -C was sent to the Planning & Development Committee for tomorrow night's meeting. You can join the meeting from the City website.

Director Port said the VI-C public hearing is Thursday, March 25. Councilor Shand asked for a 1 hour meeting. Chair Sontag said because of when this was submitted, they are under time constraints to hold the public hearing. We need 5 for members for a quorum. The Office will send out a request for attendance. We're last on the agenda.

Bonnie Sontag asked about the Planning Board's role in the Waterfront Park permitting. Director Port said there is consensus for the park to be expanded. Saki & Associates, who were involved in the downtown redevelopment, will design the permanent park improvements. They will produce a schematic layout and a cost estimate. He can keep the Board informed informally until the City is ready to come before the Board for permitting under Site Plan Review. There are no buildings other than a small bathroom/visitor center structure. The Conservation Commission will have a permitting process as well because of the distance to the river.

4. Adjournment

Leah McGavern made a motion to adjourn. Tania Hartford seconded the motion, and eight members present voted in favor.

Motion Approved.

The meeting adjourned at 8:17 PM.

Respectfully submitted -- Linda Guthrie