

**City of Newburyport  
Planning Board  
March 24, 2022  
Minutes**

The online special meeting was called to order at 5:30 PM.

**1. Roll Call**

Planning Board Attendance: Alden Clark, Bob Koup, Jamie Pennington, Heather Rogers, Bonnie Sontag, Rick Taintor, and Don Walters

Absent: Beth DeLisle

Councilor Jim McCauley, Planning Director Andrew Port, Zoning Administrator Jennifer Blanchet, and note taker Linda Guthrie were also present.

**2. General Business**

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

Bonnie Sontag said tonight's discussion would form the basis of the Planning Board's report to the City Council on 3 key STRU topics.

1) Owner Occupied versus Investor-Owned Eligibility for STRUs

Beth DeLisle's written suggestion would allow non-owner occupied STRUs to continue operating if they have operated to date without incident. The City of Salem's provision allows operators of existing non-owner occupied STRUs to continue operating if they apply for a special permit from the ZBA within 60 days of the date of the ordinance passage. Non-owner STRUs must be for the entire unit. Individual rooms within non-owner occupied STRUs may not be offered for short term rental. She would not allow new non-owner occupied units.

Rick Taintor said that the current draft allows owner-occupied STRUs as of right rather than a special permit. Ms. DeLisle's suggestion puts the burden on the operator of a non-owner-occupied STRU to get a special permit. If the unit has been problem, the special permit can be denied. This might be a good transition.

Alden Clark agreed. The special permit should be with the owner and not the property in case the property is sold.

Heather Rogers agreed with both Ms. DeLisle's and Mr. Clark's suggestions. If the property is sold and doesn't meet the requirements, the STRU would not continue.

Bob Koup said determining whether there's been a problem with a unit would occur at a special permit hearing where the neighbors could weigh in, but he disagreed with the idea of a special permit to allow a non-owner-occupied STRU. Boston's STRU ordinance allows owner-occupied

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STRUs only and is similar to our current draft in defining the 3 distinct types that are all required to be the owner's principal residence. He preferred one set of rules for everyone to follow.

Don Walters was inclined to support Ms. DeLisle's suggestion. Being unaware of the law is not a reason for amnesty.

Bonnie Sontag supported Ms. DeLisle's idea and did not think everyone could be treated the same if the ZBA could handle the special permits for the non-owner occupied units.

Jennifer Blanchet suggested using language that referred to STRUs that are registered with the state only, as of the date of the advertisement. Director Port agreed.

Bob Koup agreed. STRUs that have not registered with the state have not complied on any level and should not be given consideration to continue operating.

Heather Rogers asked if there would be an open-ended timeframe for the special permits based on what the ZBA could handle with their scheduling.

Bonnie Sontag suggested the STRU operators be required to submit their application within 60 days. Ms. Blanchet said that is the general understanding of how something like this works.

Don Walters said he had suggested allowing investor-owned STRUs in business districts, but he is willing to see how things go and consider adding that at a later date.

Bob Koup asked about the number of non-owner occupied units on the mainland were registered with the state. Councilor McCauley said about 10-15 are registered with the state as of February.

Bonnie Sontag noted that the City Council would determine the date by which a STRU would need to have been registered with the state.

Don Walters said was uncomfortable leaving the date open ended. He was not supportive without a date certain, such as "within 120 days of the date that the state required STRU registration."

Bonnie Sontag suggested state registration by August 30, 2021, the date of the most recent serious public consideration of Newburyport's STRU amendment. Mr. Walter and Mr. Taintor agreed.

2) Should STRUs require special permit approval in some zoning districts where the proposed ordinance allows them by permit?

Councilor McCauley said High Street has many unique characteristics with its large, historic buildings. While there is better potential parking onsite, it's not advantageous to pave over green space or alter historic property. Several public hearings revealed more exceptions than could be accounted for in a permitted scenario. The special permit simplifies things legislatively.

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Bob Koup asked if STRUs are permitted (in all districts except High Street) would there still be an opportunity for neighborhood input and how would that be structured?

Councilor McCauley said primarily no. The public can voice their concerns, but public access and public comment is restricted in the administrative approval process.

Rick Taintor said if a proposed use meets all of the requirements set up in the ordinance, and a special permit is just for a public hearing, the ZBA will have to act in favor regardless of what comes out in the public hearing. The special permit process gives a false sense of security that public comment will have any effect unless criteria in the STRU special permit are different than the general special permit criteria in the ordinance. The special permit process would be a cost and time hurdle without any substantive effect if the ZBA is doing its job right. If they don't do the job right by not approving an application that meets the criteria set forth in the ordinance because the public is not in favor, that makes the City open to a potential lawsuit. He doesn't think a special permit is appropriate.

Alden Clark agreed.

Bonnie Sontag asked if the special permit process for High St. would need special criteria to guide the ZBA.

Rick Taintor was not in favor of a special permit process for the High Street Residential districts because he did not see significant differences between these few properties and other properties along High Street. However, he would go along with the special permit in these districts because there is a strong constituency and it's better to have an ordinance that works for the largest number of properties in the City.

Don Walters supports not including the industrial and marine districts but would include allowing STRUs in the Agricultural/Conservation Districts, Waterfront Marine Dependent Districts (WMD), and Waterfront Mixed Use District (WMU).

Alden Clark, Heather Rogers, and Rick Taintor agreed.

Bob Koup confirmed that if a large multi-family residential project were built on the waterfront, only an owner-occupied unit could qualify for a STRU provided the project's condo documents allowed it.

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

Bonnie Sontag said the Board had already agreed to grandfather existing non-conforming parking situations for resident owners. The issues relate to additional parking needed for STRUs.

Don Walters supported the ordinance as drafted. Homeowners are grandfathered for parking as long as they keep the same use. STRUs are a different use.

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Bob Koup said B&B, lodging houses, and inns are required to have 1 parking space per bedroom. Mr. Taintor pointed out a while ago that STRUs are similar to B&Bs. STRUs are a commercial operation not too different from B&Bs and lodging houses.

Rick Taintor said a home share is not necessarily adding people or cars. He would treat home share parking differently from limited share parking. A home share has no parking impact and should have no parking requirement. The same is true with owner-adjacent where the parking impact is similar to a long-term renter. He recommended that limited share be the only STRU type to have a parking requirement.

Heather Rogers disagreed with all of the parking requirements because parking is a residential issue, not a short term rental issue.

Alden Clark agreed with Mr. Taintor with one exception. He prefers the idea of no parking requirement for the first bedroom rented, and parking requirements beginning with the second and additional units rented beyond one bedroom.

Bob Koup agreed with Mr. Taintor on a home share. The limited share and owner-adjacent should have parking requirements. The long term rental zoning requirements for a two-family house are 2 spaces per dwelling unit, or 4 spaces total. It doesn't make sense to eliminate parking requirements for owner-adjacent and limited share STRUs from that point of view, in that situation, considering that the STRU would be a new use. He hears that long term rental parking is no different from short term rental parking. If that's the case, that's what zoning requires.

Heather Rogers said City Hall told her there were no requirements for long term rental parking. Director Port said Mr. Koup is correct. There is no specific long term rental parking requirement as a parking category. The requirement goes with the use, such as 1-family, 2-family, etc.

Bonnie Sontag confirmed that it is the use rather than how a house is occupied and for how long. Whether you rent it or not, and no matter how you rent it, a 2-family use has a parking requirement. Mr. Koup's point is that a STRU should be treated the same way.

Heather Rogers asked if there was agreement that there were many long term rentals with no off street parking. Director Port agreed. The question is whether to apply more specific parking requirements for the short term turnover of these units.

Bonnie Sontag said the issue is whether STRU parking and its related turnover every week or 2 will negatively impact the neighborhood differently than a long term renter who understands the general parking patterns in the neighborhood. That's the difficulty in tight neighborhoods.

Councilor McCauley said overall, he favors a standard based upon use. When there are STRUs in places with limited or no parking in other cities, like Portland, ME, it is advertised as having only 1 or 2 spaces for parking that go with the unit and provides information about available parking lots nearby. There are options for the host to educate their guests. Key West has centralized spots for all guests while residents parked on the street. It would be good to stick to

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something from a policy perspective and let hosts be creative about communicating the parking requirements for their rentals.

Bonnie Sontag said Jennifer Blanchet recommended that licensing require the listing to specify a limit on the number of cars allowed. Councilor McCauley agreed with that.

Bob Koup said it's too easy for an out of town car to park on the street if a space is available, exacerbating existing difficulties and placing a burden on neighborhood residents to police the situation. It moves away from the goal of no negative neighborhood impacts.

Don Walters said if there were neighborhood parking stickers it would be easy to enforce. Enforcement is a real issue. Today, a registered car with out of state plates can sit on the street for months because there is no requirement against it. Can the limited share owned by a couple in a 3-bedroom house have up to 3 people? The adjacent unit would have the same approach.

Bob Koup said visitors is based on the number of people the bedrooms will sleep. If you're renting a single family house as a home share, you're covered if you have off street parking. Many houses in the south end do not have off street parking. That could become an issue. But the limited share and owner adjacent STRU cars are most likely to add cars to the street. That needs to be addressed.

Bonnie Sontag said if you have a home share are we assuming it's just one family or one party. The definition doesn't say they have to all know each other. What if a 4-bedroom home share that has a maximum of 8 people with 4 couples who don't know each other.

Rick Taintor said you are usually swapping a house with someone else. There might be 3 related families coming with 3 separate cars. Some single family homes in his neighborhood have 3 or 4 cars. It's hard to see how a home share could create a bigger impact than that.

~~Chair~~ Bonnie Sontag agreed. The Board agrees that limited share rentals make an impact. There are two points of view on the owner adjacent STRUs, one that have a bigger impact than a home share and one that they don't.

Bob Koup said the owner adjacent units should at least have a minimum off street parking requirement similar to what Mr. Taintor described in the Board's last meeting. If you base parking on current zoning, a 2-family must provide parking for 2 cars off street. Applying Mr. Taintor's earlier suggestion of one space on the street and potentially 2 spaces off street, we get to the same place. If you have a 3-bedroom house and 3 cars show up, and you're required to park 2 cars off the street, with one allowed on the street. He suggests that as a requirement for owner-adjacent units.

Rick Taintor said his thinking was that owner adjacent short term rentals should be similar to owner-adjacent long term rentals because it's on the same property. Probably most 2-family units in the south end and many in the north end have non-conforming parking. The impact of the short term rental is not more adverse than the existing non-conformity.

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Bob Koup said the impact could be worse with potentially more cars all from out of town who will park wherever they want rather than in sync with an existing pattern of neighborhood parking. Considering owner-adjacent units<sup>2</sup> the same way we consider a grandfathered parking non-conformity is a mistake because there's no limit on the number of STRUs in a neighborhood.

Heather Rogers asked if data on the average number of days of an Airbnb guest stay in Newburyport is available. Councilor McCauley said the trending average on Plum Island is 1 week. In town, the data is inconsistent, but the trend seems to be a much shorter stay, such as a weekend or a couple of mid-weekdays.

Don Walters asked if anyone would consider the first bedroom getting a free pass for owner adjacent units, but not for limited share rentals (although he did not favor this option).

Rick Taintor said it makes more sense to him for owner adjacent uses to meet current zoning without any vesting for non-conformity. He suggested that home shares could be vested for non-conformity, but owner adjacent non-conformities would not be vested.

Bob Koup said the more creative the descriptions, the more difficult the enforcement. The more straightforward and consistent, the easier the enforcement, such as the current zoning.

Bonnie Sontag said there is general agreement that home shares do not need a parking requirement. Owner adjacent could either comply with the current wider zoning requirement or we could propose one off street space and allow the other spaces on the street. The limited share option has multiple opinions.

Bob Koup asked about requiring 2 off street spaces and allow any additional parking on the street, given the impacts on the neighborhood. Mr. Taintor said that is the same as no vesting of a non-conforming use for owner adjacent rentals. The limited share is the toughest.

Heather Rogers asked if pre-existing STRUs that registered with the state could still apply for a special permit within a set timeframe if they are non-conforming?

Bonnie Sontag said that special permits would inundate the ZBA. That doesn't address the issue.

Don Walters did not support Ms. Roger's suggestion.

Councilor McCauley said the current draft has special permit criteria in it. We would be granting special permits to all of the existing STRUs if we grandfather non-conformities. He did not think the City Council would be supportive of that idea.

Bonnie Sontag said the Board's report for the City Council would be finalized at the April 6 meeting.

#### **4. Adjournment**

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

**Motion Approved.**

Meeting adjourned at 6:55 PM

Respectfully submitted -- Linda Guthrie