

**City of Newburyport  
Planning Board  
May 3, 2023**

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

**1. Roll Call**

Planning Board Attendance: Alden Clark, Beth DeLisle, Bob Koup, Jamie Pennington, Heather Rogers and Rick Taintor

Planning Board Attendance: Remote - Richard Yeager

Absent: Don Walters

Planning Director Andy Port and note taker Caitlyn Marshall were also present.

**2. Public Hearings**

*a) ODNC00141\_02\_27\_2023 Zoning Amendment Short Term Rental Units  
Continued from 4/19/2023*

Public Comment opened.

Stephanie Niketic of 93 High Street stated she sent a letter to the Planning Board. She then asked why bedrooms are not tied to occupancy. She stated on VRBO there are homes in Newburyport for rent that are one bedroom, but up to four people. She suggest limiting occupancy per bedroom.

Mary Krajci of 232 High Street suggested the STRU issue be addressed holistically. She asked that the public hearing not be closed, which would then start the 90-day clock. She then stated STRU should not be allowed if they are not managed and regulations are not enforced. Licensing fees should be high enough to support management. She does not think investor owned units should be allowed, especially in the R3 district. She thinks the amount should be limited in neighborhoods. She also thinks they should restrict activities or hours of operation and there should be parking protection. On site presence needs to be there, like the owner or an agent, to address complainants promptly. Meaningful fines and license revokes should be in place. She feels as though there should be a contingency plan/pilot program - one year with no issues and then the STRU can renew their license. She wants the neighbors and residents protected.

Rita Mihalek of 53 Warren Street stated the ordinance is incomplete. It does not benefit residents of the community. She stated it is an ordinance without operation. Will the cost be offset from the taxes? She then suggested two phases - phase one be STRU on Plum Island, and then phase two can be STRU on the mainland.

Ken Swanton of 10 Tremont Street stated that he is a member of the Zoning Board of Appeals. He stated there are a lot of STRUs in Newburyport. There needs to be an ordinance. In the ordinance the ZBA is asked to rule on special permit residential STRUs in the R3 district. You won't see a lot of STRUs in neighborhoods if it is left up to them.

Public Comment closed.

Rick Taintor then asked the board members how they felt about keeping public hearing open or if they would like to close it. Closing the public hearing would give a 90 day period for the City Council to act.

Alden Clark stated the board is not going to have a change of opinion in two weeks. He was not sure keeping it open would benefit the board.

Beth DeLisle asked if they close the public hearing, what would then happen?

Rick Taintor stated if the board closes the public hearing then City Council would have to act on the ordinance in 90 days.

Heather Rogers asked for a clarification, could revisions be made if they close the public hearing and the 90 day clock begins.

Rick Taintor then stated that revisions could be made.

Heather Rogers asked if City Council makes so many changes does the ordinance have to come back to the Planning Board.

Director Port stated the City Council does not need to come back to the Planning Board. Planning Board just needed to provide a recommendation.

Heather Rogers stated that certain points in the ordinance were hot topics. Can those points change in City Council and not come back to the Planning Board?

Director Port stated they can be adjusted and not have to come back to the Planning Board.

Rick Taintor stated that this is Councillor Sharif Zeid's proposal. The board can make a recommendation to reduce the 120 days to 30 days. The City Council does not need to take the board's recommendation. We need to review and make a report with recommendations after we close public hearing. The board can't make recommendations until they close public hearing.

Bob Koup stated it felt very preliminary to him. There hasn't been much discussion at all. There are a lot of pieces that haven't been talked about at all, for example, enforcement. There is a lot more to be discussed and a lot more to the recommendations to make to the City Council that could be more comprehensive if they had more time.

Rick Taintor suggested the Planning Board discuss tonight and continue the public hearing to the next meeting. He then asked the board for key issues and then they would go item by item.

Alden Clark stated he thinks the city needs an ordinance in place; there are a lot of STRUs. Regulation is needed. This proposed ordinance is a fair compromise and balances different issues. He sees three main issues: which zones STRUs are allowed in, parking requirements, and enforcement. Allowing owner-occupied STRUs only in the R1, R2, and R3 districts would be unfair to homeowners in other districts. They all need to be treated fairly. In some districts they would be allowed on one side of the street and not other. The zones need to be adjusted. The parking supports the requirements in the proposed ordinance. He stated he was disappointed the board didn't hear more from City Council at the last meeting. The city needs to address overnight parking in city lots to alleviate the problem. There needs to be enforcement. The city hasn't shown very much progress in enforcing other ordinances, so how will they do with this one?

Jamie Pennington stated he was in the middle of this one. There is never going to be a perfect ordinance. STRUs need to be regulated. He supported continuing the hearing. Councillor Zeid acknowledged the companion piece, which is licensing. It is intertwined. He would like to ask more questions about licensing. His biggest concern is how STRUs displace affordable housing and rental stock. He stated there has to be a limit on STRUs. He acknowledged it is difficult to put a cap on, but perhaps it can be done in licensing. The final product could be similar, but there are so many more questions to be asked and answered.

Director Port stated the board could provide specific recommendations for licensing and enforcement. The sponsor is currently working on licensing but they don't have a new version in. It is the same as last year.

Rick Taintor stated the sponsor is bringing this forward as zoning first and then the licensing ordinance. City Council wouldn't act without both.

Director Port stated the Council needed to reach consensus on both.

Rick Taintor stated that the Planning Board could discuss what needs to be in licensing even though this is outside the Board's jurisdiction.

Heather Rogers stated the ordinance is important and supports it. The 120 days for an owner to be absent is too lengthy. She stated gray areas and things could become challenging. In regard to parking she is happy with what is here. Not having STRUs wouldn't change the parking at all. Parking cannot be controlled. With or without STRUs parking isn't going to change in a significant way. She then stated Newburyport is not an affordable city. These properties will go on the market very high and sell at a high rate. Affordable housing won't happen. Yes, there would be more inventory but not

affordable even if we don't have STRUs. She then expressed concerns about the fact that STRUs are illegal and the city has been collected funds from the STRU taxes.

Beth DeLisle stated this proposal is helpful and a good compromise. She agrees that it deals with parking in a way that is fairly manageable. She agrees that the owner occupied absent from the STRU is longer than is necessary. She suggested bringing it down to around 90 days. She does not agree that someone needs to be on site at the STRU. She has used STRUs when travelling and she wouldn't have used them if she were sharing the space with someone else. She then stated that with licensing there should be someone available for the STRU 24 hours and respond in an hour to the tenants. She had concerns about investor owned properties. There are people who have investor properties that are STRUs without any issues. STRUs are currently illegal, but they do provide benefit to the city. She suggested still allowing those who have been operating to continue under a special permit. She then stated that opening the R3 district to investor units without some limit might lead to the Zoning Board of Appeals having a hard time approving them. She also suggested looking at special permit criteria that would allow some STRUs to operate, but a limited number.

Bob Koup stated STRUs are a reality. It's a matter of scale and regulation. He stated you couldn't go back once you have passed an ordinance. We are essentially grandfathering in every STRU that gets a license. In a year if parking or the 120 absentee days is problematic, everyone is grandfathered in and has those rights. They have to be careful when approving this. He agreed with starting STRUs on Plum Island and expand from there. Without some clear funded and staffed strategy for enforcement, this is a free for all. It is an uncontrolled market. We should not pass a zoning amendment without understanding enforcement. We haven't talked about the other half of the equation. In regards to the 120 days, the previous proposal had an allowance for someone who had a single-family house to do this a certain number of days during the year. It has grown now to 120 days. There was limitation of time for that particular rental so it didn't become an investor unit. For limited share and owner adjacent unit, the previous language had an appointed person to be present. By combining those types of uses, the owners do not have to be present at all. He would not support that broad allowance of time away for all of the different unit types of STRU. He suggested 120 days only be allowed to single family houses that are owner occupied. In regards to parking, there is no language that limits STRUs in the city. Parking requirements are a way to regulate the number of units who can meet that parking requirement. There should be a minimum of one off street parking space for any STRU. That would regulate the number of units allowed in the city. In the approvals process there has to be an opportunity for neighborhood input. Neighbors need a say in this process and they need to have an opportunity to voice their opinion. A lot of this hasn't been talked about at all yet. Zoning amendment needs the other half clearly spelled out.

Richard Yeager stated the priority for STRUs is on Plum Island.

Rick Taintor stated this would be the only time they have looked at zoning in the view of enforcement and licensing as a condition. He stated he felt their job is to decide where

these things are appropriate to be placed. He would like to know the licensing process, but that is not his role in this process. They don't have any information how many units will be affected by this zoning. He stated he is concern they don't have the information they need to make an informed decision at this point. He stated that 120 days is too far out of line. That would mean an owner could be absent for 1/3 of the year.

Heather Rogers asked if there are any places long term rentals are not allowed.

Director Port stated no.

Heather Rogers asked if a two bedroom condominium could rent to three cars and then they park on the street?

Director Port stated the city is not able to track number of vehicles as of right now. That is a difficult thing to do.

Rick Taintor stated a single family homes require two parking spots, but they could have more or less cars.

Heather Rogers stated that some people think STRUs could be shut down due to the ordinance. Those units could become long-term rentals and have no ordinance per se. A parking solution may not be had because they become long-term tenants.

Jennifer Blanchet stated that although a single family requires two parking spaces, zoning can't control how many cars a family owns. Those cars can end up on the street. That problem exists whether it is a STRU or not.

Heather Rogers stated parking issues could become worse without STRUs.

Jennifer Blanchet stated the board should consider if a property is eligible that licensing requires parking spaces be available to renters.

Rick Taintor then went through each section of the proposed ordinance.

Alden Clark brought up STRUs not permitted in the conservation, WMD and WMU districts. He suggested that owner occupied STRUs be allowed in all residential and business districts. They should not require abutter input.

Bob Koup referred to the R1, R2, and R3 districts. He thinks neighborhood input should be fundamental in the approval process. These are sensitive neighborhoods.

Heather Rogers stated that she does not agree. Long term rental units do not have to ask for neighborhood input. If there are complaints made by neighbors, those can be addressed and the license can be revoked.

Beth DeLisle stated she agreed with Heather Rogers. Too much of a process on the front end is too much for whoever has to grant it. If there are problems such as neighbors complaining, then enforcement kicks in. Their license should be revoked after so many complaints.

Heather Rogers stated if it is a problem a license could be removed permanently or reengaged in change in ownership.

Alden Clark stated he agreed with Beth DeLisle and Heather Rogers.

Rick Taintor suggested investor STRUs only be allowed in the R3 district and business districts and only by special permit. No investor units in the R1 and R2 districts and none allowed as of right.

Beth DeLisle suggested allowing by special permit for existing STRUs in the R1 and R2 districts.

Heather Rogers stated she agreed existing STRUs should be allowed by strict process and regulation.

Bob Koup stated he agrees with it as it is presented in ordinance. He suggested they continue to think about units in dense neighborhoods, they should have owner oversight.

Rick Taintor stated that bed and breakfasts are allowed as of right in the B2 and B3 districts. Bed and breakfast is an owner occupied use. In regards to Plum Island, the R3 Plum Island overlay district allows them without special permit.

Heather Rogers stated that Plum Island is a vacation area historically. She stated it should not be its own zone.

Director Port stated he looked at the issue. Because of history, they may be grandfathered. Not recognizing this in zoning may be problematic. That is why it is different from rest of city.

Rick Taintor stated that seasonal housing happened before zoning.

Rick Taintor referred to the statement on the second page, footnotes of use table, that all STRUs are limited to three years. He did not see that anywhere else in the ordinance and wanted to know if that had been discussed.

Jennifer Blanchet stated she was not aware of anywhere else that stated that use is limited to three years. The intent was that everyone needs to be evaluated every three years.

Rick Taintor stated that should not be in footnotes and should be stated in the ordinance.

Director Port stated that different pieces could be in different places and be rephrased.

Rick Taintor stated that the ordinance says that any time an owner applied for anything the owner started the three years over again.

Director Port stated that was to make sure someone was not out of compliance. The uses of property could change.

Rick Taintor asked if they would need to apply for a new special permit?

Director Port they would seek approval and not apply from the board.

Rick Taintor said that needs to be clearly written.

Jennifer Blanchet stated she agreed with Director Port. It could be made clearer, that way a new person in her role could easily interpret it.

Rick Taintor asked if you review any of the items is it a new appeal to Zoning Board of Appeals?

Jennifer Blanchet stated only an appealable ruling from abutter.

Rick Taintor then stated seven weekends of renting is not considered STRU. It has to be fourteen consecutive days.

Heather Rogers then asked if someone rented for seven consecutive weekends, is there nothing required?

Rick Taintor stated correct, that is not a STRU.

Heather Rogers stated that is a can of worms.

Bob Koup stated he agreed with Heather Rogers.

Richard Yeager agreed as well.

Jamie Pennington suggested those could be state definitions.

Jennifer Blanchet stated there is a state law to not charge room tax for fourteen days or less. It could be considered a STRU but not be charged room tax. Without having some sort of regulation, they can't track the number of days someone rented.

Director Port stated not being able to collect the information makes it difficult.

Heather Rogers asked in order for a property to be on platforms does it need a state certificate?

Director Port stated he believed so.

Heather Rogers stated anyone who has a state license should be considered a STRU. You can't track how many days they rented.

Director Port stated the local community can establish certain uses. They can define and say what is allowed.

Heather Rogers stated this leaves room for problems.

Bob Koup asked if we said fourteen days is a STRU, what is the tax situation there?

Jennifer Blanchet stated she believes they should ask for clarification. Heather Rogers is pointing out a hole. They could ask City Council to consider looking at that.

Director Port asked the board to think about what they think that policy should be.

Heather Rogers stated platforms charge tax and pay state the tax. Are they still paying state tax if they are going through the platform?

Director Port said he couldn't speak to how well that was being done.

Rick Taintor brought up primary residence. The owner has to live in the unit for 183 days per year to qualify for primary residence. He then questioned the 183 days.

Alden Clark stated that is more than half the year.

Rick Taintor then brought up the 120 days an owner can be absent.

Bob Koup stated that the 120 days should apply to what was previously called "home share unit." He thinks the 120 days should only apply to a single-family house.

Director Port asked the board if the 120 days could be consecutive or broken up where owner is coming back to check in.

Heather Rogers agrees the 120 days should be broken up and not consecutive. Owners should not be gone for 120 days and have STRU cycling through their home.

Beth DeLisle stated if someone is gone for three months they should have a property manager. There is no need for them to come back from Florida, but someone should be available.

Alden Clark stated he agreed with Beth DeLisle.

Director Port asked if in residential districts would no owner check in be an issue?



Rick Taintor stated it bleeds over into the investor owner category.

Alden Clark stated the proposed ordinance combined different categories into this one category. Certain things apply to one but not to others. He suggested redefined grouping.

Beth DeLisle stated she doesn't have a problem with it, but make a no presence requirement up to 90 days but then they must be present after the 90 days.

Bob Koup stated the previous amendment draft stated an owner or representative would be present when unit was being rented. The 120 days only came up in single-family house where the owner was leaving. The 120 days only applied to owner occupied single-family houses.

Jennifer Blanchet clarified and suggested days away. A house can be rented whether it is a one or two family. They are not limiting them from doing that.

Rick Taintor stated it applied to another unit in the same lot of the owner's primary residence.

Bob Koup stressed the owner needs to be present. The 120 days should only apply to an owner vacating the house and going somewhere else and renting the entire house.

Beth DeLisle asked Bob Koup if he was concerned about the number of days absent or the owner not being present.

Bob Koup referred to the previously written proposal. He felt it should only apply to a single-family house. When the owner can be present they need to be present.

Alden Clark stated if it's an owner adjacent unit, since they are limited to one STRU, they couldn't go away and rent the adjacent property and rent their house.

Beth DeLisle asked the board how many days they were comfortable with renting when the owner is not there.

Jamie Pennington brought up another component in regards to licensing. The owner does not need to be present, but needs to be reachable. He stated there is so much information missing with licensing.

Heather Rogers stated there should be no presence requirement. She suggested 120 days a calendar year in increments of 30 days.

Bob Koup stated he does not fundamentally understand not allowing investor units in certain neighborhoods and then have owners leave for 120 days a year and rent that unit. This is not what the board had been talking about historically. 120 days applied to all owner occupied. It does not make sense.

Alden Clark stated if the owner rented every weekend, the owner lives in the house during the week.

Bob Koup stated the owner is not providing oversight when renters are there.

Heather Rogers suggested a secondary contact be responsible. This allows people to travel for an extended period of time.

Beth DeLisle stated this comes back to licensing. Someone is available 24 hours a day and can be there in an hour. Presence is different from oversight. She would not ask for an owner to comeback and check periodically.

Director Port brought up the question about how many guests versus bedrooms. He suggested a maximum of two people per bedroom.

Rick Taintor stated maximum occupancy with one bedroom and no need for parking. Two people per bedroom.

Bob Koup stated he wants clarity on parking.

Alden Clark suggested two people per bedroom, a maximum of three bedrooms. On Plum Island there can be a maximum of 6 bedrooms. Some issues could arise.

Director Port brought up the amount of staffing or resources that would be put forth for enforcement. He stated that still needs to be clarified.

Beth DeLisle asked if she had a 4-bedroom house, can she have a STRU and only rent three bedrooms and have a maximum of 6 people?

Rick Taintor responded, "apparently."

Rick Taintor asked the board to what extent do they make their recommendation on this ordinance. He suggested providing a substitute table. He stated they are not rewriting the entire ordinance. They want to point out problems and fix in a limited way.

Director Port stated they have a hard time making a case. Zoning Board of Appeals does not have authority under statute to look at it as a variance.

Rick Taintor asked if it were possible a property owner could say they have a hardship and don't have the parking spaces they need to provide.

Director Port stated it is harder for the board to consider a hardship to be at play. It would need to be considered by the board.

Bob Koup referred to a spreadsheet that described existing conditions and grandfathered ones. He stated if the ordinance kept that language, STRUs would be limited to only offering one bedroom to rent if they have no on site parking. He is concerned that anyone who can't provide parking will want to be considered as a one-bedroom unit. One bedroom STRU limits the impact on the street around the property. A lot of units may be marketed as one bedroom but have more available.

Rick Taintor stated there is no maximum on number of days per year an STRU can be rented.

Alden Clark stated that section applies to investor owned STRUs.

Rick Taintor stated it should say for investor no limit.

Rick Taintor stated one STRU for everyone except for on Plum Island.

Heather Rogers asked if that is exempt for previous units?

Director Port stated this is for moving forward. There is room for debate for if it's allowed and how many.

Rick Taintor recommended an amnesty for previous STRUs.

Heather Rogers stated if some STRUs are problematic they will be vetted out through licensing.

Director Port brought up the concern about if STRUs are currently legal or operating while not being legal units.

Rick Taintor stated if the current proposal prohibits investor owned units in the R1 and R2 district you couldn't have a provision that allowed that existed amnesty? Someone doing something illegal before zoning was created is not justified. Subject to be challenged.

Heather Rogers asked for clarification on legal versus illegal. Does zoning say you can't rent something for less than 31 days?

Director Port stated no. The City Council has not authorized this use so it is prohibited.

Rick Taintor stated it doesn't say it is illegal but because it doesn't say it is legal it is not allowed based on how the ordinance is written.

Director Port stated he was not convinced.

Beth DeLisle asked if Salem, MA had done something similar.

Rick Taintor stated they provided an amnesty period. They allowed those units amnesty.

Jamie Pennington stated three year expiration of permitted STRUs. It becomes more complex for amnesty ones.

Rick Taintor responded, “correct.”

Jamie Pennington brought up the lack of criteria for special permit. Where would it go?

Rick Taintor suggested a new subsection.

Alden Clark made a motion to continue to the next public hearing. Bob Koup seconded the motion. All members voted in favor.

Motion Approved.

### **3. General Business**

#### ***a) CPC representative***

Rick Taintor asked if anyone would volunteer for this.

No members volunteered.

#### ***b) Approval of minutes***

- *4/19/2023*

Approval of minutes was deferred to next meeting.

#### ***c) Other updates from the Chair or Planning Director***

Director Port brought up the Boards and Commission Forum on Thursday. He also stated the new DPS Director started this week. They will be looping back to the infrastructure conversation.

Rick Taintor asked about the grant funds for MBTA Communities zoning.

Director Port referred to current MBTA community housing plans. He then brought up overnight parking in the city’s lots. He asked for the board to think about what they want for downtown. An amendment to city code makes it formal.

Rick Taintor asked if it would be going to Planning and Development.

Director Port stated it would be going to another committee.

#### **4. Adjournment**

Alden Clark made a motion to adjourn. Heather Rogers seconded the motion. All members voted in favor.

Motion Approved.

Meeting adjourned at 9:27 PM

Respectfully submitted – Caitlyn Marshall