

**City of Newburyport
Planning Board
May 17, 2023**

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

1. Roll Call

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

Absent: Heather Rogers, Don Walters and Richard Yeager

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

2. Public Hearings

- a) Richard and Janet Bornemann c/o Lisa Mead, Mead, Talerman & Costa, LLC
8 Avon Avenue
Special Permit (PBSP-23-1)*

Alden Clark made a motion to continue the special permit hearing to the June 7, 2023 meeting. Bob Koup seconded the motion. All members voted in favor.

- b) ODNC00141_02_27_2023 Zoning Amendment Short Term Rental Units
Continued from 5/3/2023*

Public Comment opened.

Jeanette Isabella of 150 Water Street stated she has been in the city for 38 years. She stated if she wanted to live in a business district she would have lived closer to downtown. She does not agree to allowing businesses (STRU) to do whatever what they want in the neighborhood. She referred to the parking issue on Lime Street. She asked the board to consider the people who live in these neighborhoods when making their decision.

Jane Snow of 9 Coffin Street stated her family has been in the neighborhood since 1935. She stated she had a STRU as a neighbor. She then referred to issues with STRU tenants. There has been lack of enforcement with STRUs. She also addressed the issue of not having affordable places for people to live. She suggested the board allow STRU owner occupied units and not investor units.

Public Comment closed.

Rick Taintor suggested the board could close public hearing and go to deliberations and draft the report. The other option would be to keep the public hearing open and continue on to the next meeting. When the hearing is closed the City Council needs to take action.

Director Port stated the draft was to summarize the major points that were discussed at the last Planning Board meeting.

Rick Taintor went through the draft report that addressed the proposed Zoning Ordinance amendment about STRUs. Issues addressed owner occupied STRUs similar to investor STRUs, the amount of days an owner can be away from the STRU, number of bedrooms and occupants, neighborhood input, treatment of existing STRUs, and licensing and enforcement. The Planning Board would like the issues addressed before the ordinance is adopted. He then asked the board for any other revisions.

Beth DeLisle referred to the issue regarding treatment of existing STRUs. She is a proponent of this. She does not agree with the second part about parking. She would like them to continue but only if they comply with parking.

Alden Clark agreed with Beth DeLisle.

Rick Taintor clarified that they would not allow amnesty for off street parking requirements.

Beth DeLisle stated they need an amnesty provision.

Rick stated they could do a time-limited amnesty. The other option would be to so what Salem, MA is doing.

Beth DeLisle stated she prefers the exception and the amnesty. They will eventually be phased out.

Bob Koup stated he had a concern with the concept of amnesty. It is granting relief to someone who has done something that was outside of what was allowed. They are operating outside the approval of the city. He has a hard time agreeing with the concept. He is not in favor of concept of amnesty.

Rick Taintor stated some members agree with amnesty and some do not.

Jamie Pennington stated that a couple things are missing from the draft. He addressed the issues of needing to reduce or remove amnesty, having investor STRUs will displace long-term rentals, and a cap on licenses. Also, another flaw is the lack of any specific criteria. There needs to be a licensing scheme. City Council needs to develop licensing parallel with this zoning ordinance very carefully.

Rick Taintor stated he looked at the Zoning Board of Appeals special permit criteria.

Jamie Pennington stated STRUs are a very intensive use. They are bordering on a hotel. Licensing would provide some sort of enforcement and limit of scope.

Bob Koup stated the State suggested STRU are not a residential use, they are a commercial use. Commercial uses are not permitted in the residential areas. He referred to the Lynnfield case.

Director Port agreed with Bob Koup. He stated it is a commercial case in nature and less so a residential use. What criteria will they use for this? A cap would be helpful. How will the ZBA distinguish between them in a neighborhood? Special permit criteria would be good with a cap.

Rick Taintor suggested a cap would have to be in zoning. Licensing would deal with the criteria. Could they put a cap on number of licenses?

Director Port asked unless there is a cap in the criteria, when would the Zoning Board of Appeals know they reached that threshold?

Jamie Pennington stated that zoning has to happen to make it legal, but in parallel there has to be a licensing scheme. He felt as though it was unusual that this came first. The City Council needs to develop licensing quickly because they have to go together.

Alden Clark stated he liked the language Rick Taintor used in draft.

Bob Koup added that important issue is to not have uncontrolled proliferation of units. The reality is this is a business and is a commercial use. There are two ways to limit that; make a cap on the number of licenses that would be issued. Also, the physical nature of the individual properties has a limiting feature. The second is better than trying to make a cap, but both would work to limit the number of STRUs.

Director Port stated the zoning could properly distinguish owner occupied versus investor STRUs. It is possible to look into regulating them differently. He agreed with Bob Koup's point, not just having a license cap, but having criteria that limits them.

Beth DeLisle stated she looked at other communities and how they deal with STRUs. Other communities limit the number of STRU per block. She suggested adding that to special permit criteria rather than licensing.

Rick Taintor suggested it would go in basic requirements. It could apply to both as of right and special permit STRUs.

Beth DeLisle suggested that maybe in the special permit criteria there be a presumption rather than a strict limit. She stated she doesn't know what the right numbers would be. It is hard to grapple with because they don't understand the numbers. In regards to special permit criteria, another thing that would be helpful is if the ZBA was looking at an application for permit that there be history of the STRU running without complaints.

The special permit criteria should also include the benefits of short-term rental units. Make sure benefits are considered in the application process.

Rick Taintor stated that there aren't going to be a lot of STRUs in the South End if the ordinance prohibits investor owned in the South end. An owner-occupied STRU could be an issue if they are not subjected to any special permits. In the case of an as of right use, they could be the most impactful to the neighbors.

Alden Clark raised the point of owner occupied adjacent units as investor units. There is one allowed per operator, and that is a limiting factor already to keep in mind.

Beth DeLisle asked Bob Koup asked if the parking requirements for number of bedrooms are not stringent enough.

Bob Koup stated the parking requirements are not very clear. He suggested that there can be a table that defines existing available bedroom parking required off street for units. He put together a spread sheet to make it clear. He felt the language was not particularly clear.

In the context of talking about the value of STRUs in the city, if the board is drafting a recommendation to City Council they should make a statement that reinforces the concept of protecting neighborhoods. The Planning Board strongly supports those purposes that were stated by Councillor Zeid. He then stated another issue is owner presence when being rented. He referred to a previous proposal from last year that had three different types of owner occupied STRUs – limited share, home share, and owner adjacent. Operator of the STRU is responsible to the neighborhood and the tenants. He still has an issue with the owner being able to be absent for up to 120 days. Combining all three of those types of STRU and calling them owner occupied allows the 120 days to everyone.

Rick Taintor suggested that maybe the board needs to continue this discussion to another meeting and come up with more precise language.

Rick Taintor stated that owner adjacent STRU be classified as an investor unit and not be allowed in the South End. He then referred to treatment of existing STRUs and edits he would make. They would need to comply with parking requirements. There could be a time limited amnesty provision.

Beth DeLisle suggested allowing them to continue to operate without any issues. Allow them to renew, but not in the R3 district.

Rick Taintor brought up licensing and enforcement. He suggested enforcement be enacted before the zoning is changed and not act on zoning until details were worked out. He then brought up Jamie Pennington's point to add to the draft that STRU will displace long term rentals.

Jamie Pennington stated it is a rationale for why a cap is needed.

Rick Taintor stated there is a density issue.

Jamie Pennington stated that the density issue tags on to the cap concept. He suggested not letting STRUs concentrate.

Alden Clark brought up the amnesty issue. He suggested that amnesty stays with the owner.

Beth DeLisle asked to clarify that amnesty would go with owner and not land.

Rick Taintor suggested either a sunset clause or a limitation to the existing owner.

Beth DeLisle suggested amnesty stays with the owner but if the owner transfers the property the new owner would not continue.

Bob Koup stated he was struggling with not allowing investor units to be permitted in the South End neighborhoods but then providing amnesty to units in same neighborhood. He then asked about the 120 days to be absent from the property. He asked that in the last sentence they add “or eliminated.” He also brought up that the draft states two occupants per bedroom. Could they change that to “adult occupants.”

Alden Clark made a motion to close the public hearing and continue deliberations to the June 7, 2023 meeting. Beth DeLisle seconded the motion. All members 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. General Business

a) Approval of minutes

- 5/3/2023
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Alden Clark made a motion to approve the minutes. Beth DeLisle seconded the motion. All members voted in favor.

b) Other updates from the Chair or Planning Director

Director Port stated they will be picking up discussion on MBTA communities.

Rick Taintor stated the board will be going down to a seven member board as of June 1. He is also working on zoning for Waterfront West. He will send a draft to the ad hoc subcommittee. The biggest job is the design standards. The Mayor has hired a consultant to help draft zoning. He will get more feedback from the subcommittee.

Director Port stated the issue of massing is important. Before they get to the design standards and take the master plan layout and apply to it the initial design standards, they need to have that massing model to help illustrate the special layout. What is the appropriate scale? They need a 3-D model that shows massing.

Bob Koup stated he had a conversation with the Mayor's consultant talking about a 5-story height limitation. He stated it becomes an economic question. It would be very hard for the board to be specific where height should happen. They should define the nature of the project and give them the ability to establish units and parking spaces.

Rick Taintor stated they need to be as prescriptive as they can be in that area.

Bob Koup then stated to apply maximum height.

Rick Taintor stated that metrics that would define what we would allow.

Director Port brought up the issue of whether a hotel is feasible in Waterfront West.

4. Adjournment

Alden Clark made a motion to adjourn. Beth DeLisle seconded the motion. All members voted in favor.

Motion Approved.

Meeting adjourned at 8:16 PM

Respectfully submitted – Caitlyn Marshall