



Planning Board Meeting Minutes  
Tuesday, October 18, 2022, at 7:00 pm – Remote Participation

Members Present: Diab Jerius, Chair  
Kurt Spring  
I-Ching Scott  
Sally Dale, Vice Chair/Clerk  
Nicholas Rossettos

Also Present: Brian Szekely, Town Planner  
WinCam  
Bryan Manter, Assistant Town Engineer  
Nancy Polcari, Recording Secretary

Others Attending: Richard Leaf  
Mark Andersen  
Peter White  
Mark Vaughan  
Christopher Patzke  
Jamie Devol  
Mike Oliver  
Rachel Whitehouse  
Julie Riemenschneider  
Ellen Spencer  
Tracey Burhans  
Eileen Casciari

A quorum being in attendance, Chair Jerius calls the Winchester Planning Board (PB) meeting to order at 7:00 pm, noting that the meeting is being recorded via zoom and WinCam. Roll call of PB members: Dale, Rossettos, Scott, Spring, Jerius in attendance.

**1. Updates – Mr. Szekely:**

- a. Met with the Massachusetts Housing Partnership. The grant for 3A assistance opened. He plans to apply for funds to support the analysis that is needed to determine if Winchester is in compliance.
- b. Met with Civico and the Town Manager to discuss the revised development project at Waterfield. Focused on the process. Noted that the commercial area has been removed, and there is more parking and residential units. Anticipate it will go before the Select Board sometime in November or December.
- c. Met with Toole regarding their development of the Transportation Master Plan. Their scope includes establishing a process to review and prioritize the list of projects.
- d. The Fells Hardware project (654 Main Street) appeal was in the discovery phase last July. The legal representatives for Winchester will continue to be Anderson & Kreiger.
- e. The Conservation Commission is reviewing the 10 Converse Place project. Expect to see a response in the next 2 to 6 weeks.
- f. Question asked: will there be more discussion on expanding smart growth elsewhere in Town?  
Answer: Currently there are 3 areas targeted for growth: the Central Business District, North Main Street, and the Light Industrial zoned area at Holton/Cross/Swanton streets. The Wedgemere area is not on the list right now.

**2. Updates- Chair Jerius:** There is a public forum on the ADU Bylaw tomorrow at the Jenks Center from 7-8:30 pm. All welcome.

**3. Planning Board and Design Review Committee (DRC) Joint Meeting:**

Chair Jerius: Called the joint meeting with the DRC to order at 7:15 pm. Roll call of DRC members: Spencer, Devol, Casciari, Riemenschneider in attendance.

Chair Jerius: Since both PB and DRC have similar interests, want to meet to discuss the process and then address any specific questions.

Discussion:

- Process has improved; DRC is advisory for Site Plan Review and Special Permits.

- Concern with historic properties and not being involved early in the process to comment. Many historic homes could be preserved/renovated, avoiding total demolition.
- Most homes are being replaced with very large, 2-million-dollar mansions.
- Suggestion to include review when Historic Commission issues a demolition delay.
- Can the demolition delay be longer than a year? Like 18 or 24 months?
- Trees are also being removed and not replaced.
- Would like a more holistic approach.
- What have other communities done to preserve historic homes?
- Mr. Leaf: Noted that the current ZBA does not include any members with building design or construction background. DRC and PB review is critical.
- Mr. Szekely: Noted that the demolition delay is a General Bylaw. It is possible to change the length of the delay but would require legislation. Could start with a conversation with the Historic Commission.

Chair Jerius: What are the thoughts on the proposed ADU Bylaw?

Discussion:

- This focuses on 2 groups: people with disabilities and seniors.
- There are 3 types of projects: interior changes, additions, and detached additions. The proposed Bylaw has a minimum size of 150 square feet and a maximum of 900 square feet or 50% of the primary unit (whichever is less).
- By definition, a project is an ADU if it contains a kitchen. Many exist in Town, but not legally.
- The goal is to offer homeowners the ability to add an ADU that would be occupied by one of the two identified groups.
- Who regulates the ADU if the house is sold? How do you prevent these from turning into an Air B&B?
- Currently DRC can only review and comment on the exterior of the home.
- Does this address the impact to neighbors? That needs to be part of the review process.
- This Bylaw is sponsored by the PB, Housing Partnership Board, Select Board and Disability Access.

Chair Jerius: Requested DRC review and provide comments. Any comments may need to be addressed as amendments at Town Meeting. Closed the DRC/PB joint meeting at 8:26 pm.

#### 4. ZBA Petitions:

##### a. ZBA Petition #3977 – 326 Highland Avenue:

Mr. Szekely: The petitioners are seeking Site Plan Review so as to be permitted to change the grade of more than 500 square feet by more than 6%. The property is located in the RDB zoning district and contains 26,065 SF. The proposal entails the addition of a pool at a level below the residence, separated from the street by a pair of terraced fieldstone veneer retaining walls (to match existing) with plantings throughout. Retaining walls will be 3-5'. House was built in 1901 and is a Historic Resource with above average significance based on the MACRIS form supplied in the application. The proposed pool is towards the front of the house because the house is set further back on the lot. The applicant has requested a continuance from the ZBA based on comments from the DRC. It is odd to have the pool in the front, but if the walls and the view of the pool is adequately screened with vegetation, it would be more appropriate for the streetscape and more comfortable for the users of the pool. Currently there is little visibility to the front of the house. Presentation provided by Zen Associates, Peter White and Christopher Patzke, as summarized:

- Access via driveway on side of property
- DRC commented on stones and fencing.
- Also providing plot plan and drainage plan.

PB Comments:

- Concern raised for the impact of construction on the existing trees root systems.  
Mr. White: working to keep the existing trees and using protective materials during construction to mitigate impact to the roots. Not anticipating problems, but if something happens, the trees will be replaced.
- What assurances of the quality and durability of the stone wall over time?  
Mr. White: The wall is being designed by a structural engineer. It will have steel reinforcing and include the required drainage.
- Mr. Manter: Confirmed the drainage requirements of the project, including the plot plan.
- This project will enhance the existing home.
- What are the proposed plantings?  
Mr. White: Near the wall the plantings will not be tall. Near the street, want to preserve the existing plants and add some while maintaining the character.
- Is there a safety fence around the pool?  
Mr. White: Yes, there is a glass railing.

Ms. Scott moved to endorse Site Plan Review for ZBA Petition #3977, 326 Highland Avenue. Mr. Spring second the Motion. Vote: Dale, Scott, Spring, Jerius in favor; Rossettos abstain. Motion passes 4-0-1.

**b. ZBA Petition #3978 – 32 Everett Avenue:**

Chair Jerius: Introduced the design team, Zen Associates, Peter White and Christopher Patzke, who provided a presentation of the project, as summarized:

- Adding a pool and tennis court to the rear of the home.
- Changed from double tennis court to a single tennis court.
- Walls to support the change in grade vary from over 20 feet to shorter heights.
- Property is located on the Mystic Lakes.

PB Discussion:

- Adding a tennis court will create a wall visible from the lake; this is a negative impact for the view from the water (obstructing a scenic view).
- Mr. Vaughan: (legal counsel for the applicant) noted that he did not believe this provision is meant for private property.
- How many existing trees are being removed?
- Mr. White: Many planters are being added.
- The 21 feet of a vertical material is visibly jarring from the public way (view from the water), especially using a light color.
- Mr. Vaughan: The intent is to “vegetate” the retaining walls.
- Mr. White: Would rethink the use of a dark color instead of the proposed light color (selected to match the existing house).

Ms. Dale moved to withhold endorsement of Site Plan Review for ZBA Petition #3978 - 32 Everett Avenue, based on 9.5.7, #1 and #7. Mr. Rossettos second the Motion. Vote: Dale, Rossettos, Scott, Jerius in favor. Spring abstain. Motion passes 4-0-1.

## 5. Town Meeting (TM) Report

Chair Jerius: Requested the PB review the 2022 spring TM report in preparation of writing the fall TM report.

PB discussion included which parts to remove and to add, briefly summarized:

- Add in smart growth – achievement of density while enhancing the Town’s beauty.
- Add in the Tree Working Group.
- Include the North Main Street concepts.

Chair Jerius: Clarified what the Massachusetts General Law states regarding the PB presentation at Town Meeting: “giving information regarding the condition of the city or town and any plans or proposals for its development and estimates of the cost thereof and shall at the same time furnish a copy of its report to the department of housing and community development.” Requested forwarding this week any additional comments to include in the report.

## 6. Zoning Bylaw 3.5 Discussion: Special Permit vs. Variance: Postponed.

## 7. Town Meeting Articles and ADU Bylaw Revisions:

Chair Jerius: Based on comments from the Public Hearing, DRC and ADU working group, there are 3 proposed changes to the wording of the draft ADU Bylaw.

Mr. Szekely: Noted that in Section 3.2.2, second paragraph of the proposed ADU Bylaw, “...provided that either the primary or accessory unit is established or constructed for the purpose of creating housing...” There was a concern that someone could establish or construct and not use. The intent is to “use”. So wording needs to change to “use” and remove “established or constructed”.

Mr. Spring moved to amend this section to change the wording from “estimated or constructed” to “used”. Ms. Dale second the Motion. Vote: Dale, Rossettos, Scott, Spring, Jerius in favor. Motion passes 5-0-0.

Mr. Szekely: There was concern regarding Section 10, that these units could turn into an AirB&B.

After PB discussion, suggestion of adding a minimum of 30-day rental, with a minimum of 30-days between rental start dates. This is the intent.

Mr. Spring moved to add to Section 10, wording that would require a minimum of 30-day rental and a minimum of 30 days between the start dates of rentals or similar language as approved by Town Counsel. Ms. Scott second the Motion. Vote: Dale, Rossettos, Scott, Spring, Jerius in favor. Motion passes 5-0-0.

Chair Jerius: How to include DRC in this process? There are two possible options. Certain types of ADU’s are special permit only. This requires applicants to go before the ZBA but could add 4 to 6 weeks to the process. The other option is for the DRC reviews any ADU that is built inside setbacks.

Discussion:

- Make sure the ADU is consistent with the existing process. This is all by-right, except for use.
- Intent of bylaw is to provide relief to the senior and disability community to stay in Town. Concern that this is too restrictive.
- Other communities with ADU bylaws are less restrictive. It is allowed for anyone.
- In Paragraph 10, Zoning Enforcement Officer would seek the advice of the DRC for Items #4 and #5, but as advisors. Does the ZEO have the expertise to make this subjective decision about

design? The DRC is an advisory committee to the ZBA. The ZEO would make the decision with the advisement of the DRC. This provides clarity as to whom is responsible for the actual decision.

- Suggest keeping the existing language of #4 and #5, and #10. The DRC also has the option to bring an amendment to the language.
- Recommend changing the wording from “building commissioner” to “Zoning Enforcement Officer” and to change “numbers 4 and 5” to “provisions 4 and 5”.

Ms. Scott moved to change the wording for Item #10 to read “The Zoning Enforcement Officer shall determine if the ADU complies with provisions 4 and 5 above, with the advice of the Design Review Committee.” Mr. Spring second the Motion. Vote: Dale, Rossettos, Scott, Spring, Jerius in favor. Motion passes 5-0-0.

Chair Jerius: Noted there are two articles on the Fall TM warrant where the PB needs to decide whether to endorse: the Community Preservation Act and Leaf Blower Bylaw. Will discuss at a future meeting.

#### **8. Adjourn:**

Ms. Dale moved to adjourn the PB meeting of October 18, 2022. Mr. Rossettos second the Motion. Vote: Dale, Rossettos, Scott, Spring, Jerius in favor. Motion passes 5-0-0. Meeting adjourned at 9:59 pm.

Nancy Polcari, Recording Secretary

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Sally Dale, Clerk