

Meeting of the Planning Board
May 26, 2020 – Town Hall

Present: Members Coons (recused and left the meeting), Delisio, Fish, Foley, Mastrogiacomo, Olney, Russell

Absent:

Other Staff, Board, Committee members Present: S. Mellish (ZBA), P Orlando S. Brown (Town Planner), Mark Bobrowski (Consultant)

Chair Mastrogiacomo called the meeting to order at 5:00 p.m., welcomed participants, outlined procedures for the meeting and provided an overview of the purpose for the Zoning Recodification and Update initiative.

Chair Mastrogiacomo introduced agenda item 1: Discussion regarding Potential Regulation of Use of a Private Residence for Large-Scale Events, noting that the Board could chose to 1) address the issue under the current Zoning Update initiative, 2) address the issue at another time or 3) do nothing.

G Russell provided some context for the discussion by differentiating between the Estate Preservation Bylaw and a Potential (Zoning or General) Bylaw to regulate large events on residential properties. Russell noted that the Estate Preservation Bylaw was a strategy identified during the Master Planning process to support conversion of large estates through a special permit process from single family residential use to multi-family or commercial use in order to help preserve the buildings and grounds, increase housing diversity and allow for commercial uses on sites determined appropriate. The strategy was not included as a recommendation in the final Master Plan.

Russel noted that the Estate Preservation Bylaw is not what the Board is discussing tonight. Rather tonight's discussion is to determine if there should be regulations that prohibit or allow large events on private properties. Russel noted that there are not currently rules that regulate events that are not commercial. Commercial uses are not allowed in residential zones.

The issue is complicated when properties are rented by the homeowner and the renter has a large event. Would any large event by a renter be considered a commercial use of the property?

S Mellish noted that in general renters assume the rights of a homeowner when they rent a property, in that they are able to occupy it and use it for any use allowed by zoning. For example, a homeowner could host a wedding, fundraiser or other large gathering at their home, and these rights would also be assumed by a renter. Mellish opined that this would not be considered a commercial use, unless the homeowner was renting the home as a function facility. If the homeowner advertised the rental as something other than a residential home, this would be considered a commercial use.

C. Delisio questioned if any rental in itself would be considered a commercial use as it generates income.

Board members noted that there were very limited existing regulations for large events, noise and safety regulations among them. Members also discussed whether regulations for non-continuous uses such as large events should be regulated by permit through the Town's General Bylaws. P. Orlando and Attny Bobrowski both opined that such regulations belong in the Zoning Bylaw.

M. Foley suggested Large Events be removed from the Use Table and that Town Counsel might advise on how best to regulate large events.

A Fish agreed the use should be removed from the Use Table and the Town might consider regulations by issuing permits. She opined that frequent large events would be implied to be inconsistent with residential zoning.

C Delisio stated support for exploring options for regulating large events if time allowed, but not in the current Recodification initiative. She also noted that there needs to be a definition for business use.

P Orlando – renters are not entitled to host large functions. If the Town wants to address this issue, it should be in the Zoning Bylaw.

Attorney Bobrowski noted that other communities had addressed this issue and agreed to send examples.

G Russel noted the seriousness of the issue, and also noted that he didn't see large events in general are not an issue unless they exceed a certain number of events within a limited period. Events could/should be made as compatible as possible with residential use. Is it a widespread problem for Manchester at this time? He opined that the issue could be considered in the future if warranted.

Chairman Mastrogiacomo invited discussion from the Board and then from the public.

Members shared differing opinions on the level of existing protection from the impacts of large events noting that Zoning prohibits commercial uses in residential zones but also noting that there is not absolute clarity about what constitutes a commercial use.

Residents shared concern about large events. Mr. Borgeson noted that he was against the Board taking the issue up as part of the current initiative and would work to undermine the project at Town Meeting if the Board proceeded.

C Delisio countered that the status quo leaves neighbors unprotected and her goal was to create more stringent regulations for large events. She also noted that a vote to remove the issue from the discussion is pre-mature.

Mary indicated support for removing it from the Use Table and discussing it further.

Bobrowski noted it was in the Use Table now just as a reminder to discuss it. He further opined that it seems more complicated as part of the current initiative

Olney noted support for taking it on, but outside the current initiative.

C Olney made a motion and G Russel seconded to remove consideration of a bylaw to regulate large scale events from the current Zoning Recodification and Update initiative and to revisit in the future if warranted.

G Russell noted the seriousness of the issue and the need to address in the future if the issue is considered widespread.

A Fish asked for confirmation that the rental for large events was deemed commercial and is not allowed under zoning.

S Mellis distinguished between homeowner events or rental owner events vs large events that are commercial– based on how the rental is advertised. If the owner rents for the intention

W. Dixon noted there may not be adequate protection for homeowners from events by renters. She also noted that these events would not be a problem this summer because of the Covid limitations but would like to see potential loopholes addressed in the future.

Chairman Mastrogiacomo took a roll call vote on the motion to not consider this issue within the current Zoning initiative. The motion passed 4-2. Russel – yes, Olney – yes, Foley -no, Fish – yes, Delisio – no, Mastrogiacomo – yes.

Chairman Mastrogiacomo introduced the second agenda item, Review Draft Zoning Bylaws 8.2 – 8.6

Mr. Bobrowski noted that the goal of the meeting is to consider and agree on changes to the remaining subsections in Section 8.0 Special Housing

Attorney Bobrowski provided a brief description of and recommendations for Sections 8.2-8.6

Section 8.2 – Bobrowski noted the lack of use and potential use for this Bylaw that permits developments on 50 or more acres in Res C and E and recommended deleting entirely.

Section 8.3 – Discussed changing the name from Flexible Development to Residential Conservation Cluster (RCC) noting that it can replace the existing RCC that has the illegal Inclusionary Zoning element, but that in most ways is very similar. The proposed CCR would be more effective in getting applicants to choose an alternative permitting model than subdivision and would result in better developments. The Subdivision bylaws support a single type of development. The proposed CCR would allow the Board, supported by professionals to work with the applicant to create a context sensitive development.

Bobrowski noted that the Board needs to decide on some policy decisions within 8.3

- 8.3.3 – Applicability: Minimum lot size – placeholder is 5 acres in any district (Concord Riverwalk for example on 2.5 acres of usable land.)
- 8.3.6 – Modification of Lot Requirements -consider no min lot size/frontage /no required separate lots, placeholder includes 50% of side and rear setbacks required within the district
- 8.3.8 – Density Bonus – placeholder is 20% over basic yield plan, not to exceed 2 bedrooms per unit (Groton provides a good example)
- 8.3.9 – Affordable Component – placeholder 10% minimum and SHI requirement
- 8.3.10 – Types of Buildings – placeholder single and two family where allowed
- 8.3.13 – Contiguous Open Space – placeholder minimum 20%, buffer area 25ft

Bobrowski recommends using Landscape Architect for Peer Review of Special Permit Applications for Conservation Clusters.

M Foley noted difficulty comparing proposed to existing and offered concern that some details seemed to be lost.

Mr. Bobrowski noted he would identify “character related purpose statements” and include in proposed purpose list. Mr. Bobrowski also noted he could create a matrix to compare new and proposed criteria.

G Russell noted his support for 8.3 replacing the three existing cluster bylaws and suggested that the remaining policy decision discussions could be with the community during community workshops. He also noted support for lower minimum acreage and greater flexibility for number of bedrooms.

Ron questioned if a vote was needed to determine whether to accept as proposed. Sue noted in the past the Board generally agreed on whether to move forward.

Ron asked for general agreement of moving forward. Chris, Sarah and Paul noted agreement. No further discussion

Mary noted that she did not agree with moving on from 8.3 discussion without policy decisions discussed and at least generally agreed upon as there are too many unknowns in current state.

Section 8.4 Bobrowski recommends it be replaced by 8.3

Section 8.6 Division of Land and Development of Multiple Dwellings – Bobrowski asked Board to decide if it should be removed. There is very little left after the illegal section is removed. Several members noted agreement for removal of 8.4. No one spoke against removal.

Section 8.5 Senior Housing – Bobrowski noted that the purpose of this bylaw is to make the development of various senior living options easier. Types of development could include independent living units with some services, assisted living units, long term care units and congregate care facilities. He noted that a recent study showed that for each tax dollar collected

from senior housing units, 30 cents is spent on services for these developments and 70 cents is free cash to the community. He also noted that he has seen these facilities successful in many settings from rural to urban centers.

Bobrowski asked Board members to review and have recommendations for the policy decisions (in red in draft) in this section for the next meeting.

Chairman Mastrogiacomo noted that the next meeting would also include review of the Use Table.

The meeting was adjourned at 6:25 PM.

Meeting minutes prepared by Sue Brown
Approved at Planning Board Meeting of June 1, 2020