



Planning Board

Meeting Minutes of April 4, 2022

Board Members:

Present: Casey Campetti, Chuck Walkovich, Joyce Morrow, David Ganong, Al Patenaude

Staff: Jenny Gingras, Cheryl Lutcza

1. Call To Order

6:00P.M. The remote public meeting (recorded for future broadcast) was called to order by Mx. Campetti.

2. Acceptance of Minutes:

- a. March 21, 2022: Mx. Campetti asked for a motion to accept the minutes. Mr. Walkovich motioned to accept the meeting minutes of March 21, 2022, as written, seconded by Mr. Patenaude. All in favor. None opposed.

Mx. Campetti asked if there were any quick items that any of the Board Members would like to update from any of the items further down the Agenda. Mr. Walkovich asked if the Master Plan Implementation Team (MPIT) could get onto the Planning Board Agenda for the April 19th meeting for 5 to 10 minutes, as they need some action item by the Planning Board for four items they need to close out. Mx. Campetti said that she did not see a concern with that. Discussion ensued.

3. 6:05 P.M. Public Hearing on Zoning Article: Mx. Campetti opened the public hearing and explained it is to see if the Planning Board will recommend the proposed zoning article that will be going to Spring Town Meeting.

- a. To see if the Town of Pepperell will vote to amend the Zoning Bylaw by adding in its entirety Section 8900, Adaptive Reuse of Significant Structures.

Ms. Morrow read the Notice of Public Hearing into the record.

Ms. Gingras said that she would like to thank all of the Boards, Committees, and individuals who have helped to create the current draft of this article. All of the comments have helped significantly in drafting an article that she thinks will be beneficial to the community as a whole, and will also implement Master Plan Goals and priorities. She then shared her screen and provided a slide presentation of the Adaptive Reuse of Significant Structures. At the conclusion of her slide presentation she said she would be happy to answer any questions.

Mx. Campetti asked if the Board Members had any questions.

Mr. Walkovich said that all of the changes that Ms. Gingras has made are consistent with what we heard at the public meetings and the comments we've received at prior Planning Board meetings, and from his standpoint this is good to go.

Mr. Patenaude asked if the Board received any follow up from Town Counsel in regards to the question on some buildings that had previously been municipally used, but aren't at the moment, and how do those apply. Have we been able to close that loophole? Ms. Gingras said that both she and Town Counsel have reviewed this. She said that she has looked at many other similar articles and bylaws in other towns that have adaptive reuse, and she hasn't found any other town that specifically points that out. It's hard to find the wording for it because you don't want to exclude certain types of buildings that are current, because this article/bylaw would forever be in place. Essentially Town Counsel said that if a project/application came before the Planning Board, the Planning Board could decide that it does not meet the criteria and is not eligible for a reuse project. Mr. Patenaude asked what would the reasoning behind that, and does it leave it open-ended for the Board to not allow. Ms. Gingras said not necessarily and gave some examples. Discussion ensued.

Ms. Morrow said in her opinion, the edits Ms. Gingras conducted on the Adaptive Reuse article over the past few months, have really tightened it up and she believes that it really sends forth a very positive message and she agrees with all the changes that were made and she believes this would help the town in many ways. This allows for use of properties that are becoming rundown and not used. This brings home the need for the Town to consider the changes using the Adaptive Reuse Article.

Mr. Ganong said he would echo Ms. Morrow's comments.

Mx. Campetti spoke and asked if there are potential good projects out there that we could be limiting by that interpretation. If something had a use and but for someone not using it for some other purpose that structure might not exist today. Are we inadvertently penalizing structures that may be being used for something else today? We have to be careful there because it could include tons of structures in Town, so we need to be careful with that language. So my question is, might we exclude things we may not intend to exclude with that application. Ms. Gingras said she was not too concerned with that. If an applicant came in and it was obvious that the project did not meet the intent of the bylaw as written, then that determination would be made before they apply. They technically could still apply for a Special Permit, as that is their right, however it would be up to the Planning Board to make that determination. I echo the concerns to not overly regulate within the zoning bylaw, as we don't want to exclude things inadvertently. Discussion ensued between Mx. Campetti and Ms. Gingras regarding the Planning Board's discretion regarding Special Permits and that the Board needs to make positive findings in order to grant a Special Permit, as well as conditions that may be warranted. Discussion ensued between Mx. Campetti and Ms. Gingras.

Mx. Campetti asked Ms. Gingras if the Board received any written comments from other Boards or the public. Ms. Gingras said she received comments from Ron Karr, Carolyn Ahdab and the Climate Change Council. It was circulated to all of the Town Boards, Departments and Committees.

Mx. Campetti asked Ms. Gingras to summarize the comment from the Climate Change Council. Ms. Gingras shared the Climate Change Committee's comments via screen share.

Mx. Campetti asked Carolyn Ahdab and Ron Karr if they would like their written comments read into the record. Ms. Ahdab, 19 Deerfield Drive, said that she was fine with Ms. Gingras reading her letter into the record. Mr. Karr said that his comments were from an earlier version and most of them no longer apply. Ms. Gingras read Ms. Ahdab's comments into the record.

Mx. Campetti invited members of the audience to ask questions:

Kathy Pries, Blue Heron's Way, said that she had a question on the 8930 Eligibility, talking about 15 years and community-type purpose, which is kind of vague, she is looking for a clear definition of that.

Brooke Ramthun, 5 Countryside Road, said that she had question on interpretation of municipal building or fraternal building. Question of ownership might be helpful in defining municipal building, fraternal, and places of worship. She said that she supports this adaptive reuse article in the strongest way. There will always be some level of risk in these types of endeavors. Would like to see limit on square footage of retail use and other uses that might draw a lot of traffic.

Carolyn Ahdab, 19 Deerfield Drive, said that she would like to see stronger guardrails and definitions put into the bylaw so when the Planning Board does make a decision either for or against a particular project, that they have that standing, if something were to go to the ZBA, they would have that standing with clearer definitions. Would like clearer definitions and guardrails in the Table of Uses and Zoning By-law. Small, medium and large retail is important to her. Water use is also a large concern, as we have the PFA's and water draw issues.

Craig Hansen, 5 Long Meadow Lane, said he is President and co-founder of the Fitz Collaborative looking to reuse the Peter Fitzpatrick building. Would like to speak in support of passing this and it is critical to the future of that property. Potential uses are more programming, commercial kitchen, food hub, professional offices and some co-working spaces, shared offices, maker spaces. This is a big opportunity for the town to further utilize an underutilized building.

Bentley Herget, 25 West Street, said he was also the Building Commissioner and Zoning Enforcement Officer for the Town of Pepperell. He supports this bylaw and the reuse of these buildings. They need to get used or else they are just going to fall apart.

Ms. Morrow said that the main point of the Adaptive Reuse is the preservation of existing structures. The AR protects what is currently there visually. Any change that is made would have to conform to what is there now, but the change would take place inside the building. From the streetscape it would remain the same. This is important if we want to keep the country, small-feel of the Town.

Ron Karr, 30 Elm Street, Chair of Historical Commission, responded to Ms. Morrow's comment on the Shattuck School, which is zoned commercial, the underlying zoning is still in effect there. As Chair of the Historical Commission he is in favor of adaptive reuse. Most of his concerns with this are not of the Historical Commission, his own reservations are with the definition of Section 8930, and hopefully Town Counsel is correct, that the zoning means current municipal buildings, which raises the question of what do we mean by current. If once a municipal building always a municipal building then we deal with the situation we had recently on Canal Street (the old Water Department building), could that be brought back under this bylaw. He said he has more of an issue with community-type purpose. Hopefully the Town Counsel is correct. As a member of the Historical Commission he would like to see some of these buildings and historic churches (built before 1960) in Town preserved, and this includes the Grange Hall. Based on his years as a past member on the Planning Board, he discussed differences between Special Permits and Variances. He would like to look at some other legal views on this, in addition to Town Counsel's, regarding buildings that are on the list for adaptive reuse. He may consider drafting an amendment, prior to the Town Meeting.

April Healey, 39 Oak Hill Road, said that she had a question on the documents attached to the bylaw, along with the map, that were listed as examples of structures that could apply for adaptive reuse projects. She is under the impression that this list is incomplete or not definitive. Can these be added to or deleted at some time.

Mx. Campetti asked if there were any other members of the public that would like to speak or ask a question of the Board. None.

Mx. Campetti asked Ms. Gingras if she would like to speak.

Ms. Gingras said that regarding the municipal and community type uses, religious uses in a residence would not be allowed. The underlying zoning still applies for uses that are allowed or not allowed. The DPW would be looking at the water usage and it would be up to the applicant to provide documentation to meet infrastructure/utility requirements. The community-type purpose is that we need to be more inclusive and Town Counsel advised that type of use be included.

Mx. Campetti asked if the Board Members had any comments or questions.

Mr. Patenaude said he would like to see things be a little “tighter”. The article is needed, but he is a little concerned without having a few things clearly defined. Not being restrictive enough and leaving it up to the Courts could be costly for the Town or a buyer/owner.

Mr. Walkovich said that Mr. Patenaude is correct on some of this and if there is a way for us to “button” some of this up, it would be beneficial, as courts and laws do change. If Jenny and Town Counsel are fine, we do have to rely on their advice.

Mr. Ganong said he had no additional comments.

Mx. Campetti said that she is “kind of in the same boat”. Her question would be do Town Counsel, or Ms. Gingras, see downsides to some of the language. Are there places in here where we can be a little more specific or clear without eroding the intent? Would there be an objection to tightening up some of the language, especially on the 15-year language regarding use of a municipal structure. Are there little places here where we could be clearer so we aren’t setting the Planning Board and Town up in dealing with this down the line, but not being so overly restrictive of projects at the heart of why we really want to do this in the first place?

Ms. Gingras responded and said this is geared toward buildings that are vacant or underused/underutilized, such as municipal or community type buildings, such as a church or the Peter Fitz. The Knights of Columbus building is now being used for residential, so it’s found its new use and is not underused/underutilized. Mx. Campetti said she likes the idea of continuous being added. Discussion ensued. Ms. Gingras said Town Counsel wanted them to be careful with listing out religious use. Ms. Gingras said that she agrees with adding the wording of 15-year continuous use. Discussion ensued between Mx. Campetti and Ms. Gingras regarding definition of list of community-type buildings, such as houses of worship, benevolent and fraternal lodges and what wouldn’t qualify as a community-type building.

Mr. Patenaude spoke and said that one of the problems with religious structures, is that religious structures are allowed anywhere under our zoning and we don’t have the ability to separate that out in any location. Presently we know where we have religious structures, but in the future we don’t. The ability to define what is a religious structure or not, gets more vague as time goes on, so it’s concerning not to have definitive ties to the overall article. He was wondering if the Fatima Shrine on Heald Street is a religious entity/building/structure. Would that be one of these structures that would be allowable even though it has a residential home, it’s had that shrine notification there for as long as he can remember, here is a sign that points to it there as well. Has concerns that we don’t underestimate the thought process of the Town as it moves forward in the future.

Ms. Gingras responded and said she understands the concerns and that the principal use would have to be a place of worship. She said that she is unfamiliar with the shrine, but is it used as a residential home as well. The Building Commissioner looks at these when they come in and he is the one who ultimately makes the zoning determination before it gets to the Planning Board. She said all we can do is make this as solid as possible. The list for the potential adaptive reuse properties on the website came from the Assessor's database. She can talk to Town Counsel again to try to come up with some wording, maybe "non-profit ownership" or something like that.

Mx. Campetti asked if the principal use of a structure could be what drives the eligibility, could that language be added.

Mr. Patenaude referenced the Catholic Church that has a residence next to it. Would the residential home be included or excluded. Discussion ensued on interpretation of this type of scenario.

Mx. Campetti said that it may qualify as an affiliated structure to the church. Mr. Patenaude asked would it say that or would that be an interpretation, and what if they are on separate parcels. He also referred to the parking lot across the street from the Catholic Church, where does it end. We have to think about how things get linked, where does it end?

Ms. Gingras said we can't go into every single "what if" for every single structure on the list. Mr. Patenaude brought up accessory structures and including language. Mr. Patenaude mentioned some legal issues that have come up in the past for the Town that have been tied up in Court for years and cost the Town a lot of money. Ms. Gingras said she understands and she can work on some language. She said that the language in the proposed by law recognizes that there could be more building on the lot. Mr. Patenaude said that the correct wording could close any loopholes.

Mx. Campetti suggested that some of the questions that have come up may need to be run by Town Counsel, as either an outright questions or language tweaks. She asked if it makes sense for the Board to take more time to obtain that information and continue the hearing until our next meeting so we can get those questions addressed.

Ms. Morrow said she was okay with continuing the hearing to the next meeting. She would like to circle back to the comment Mr. Karr made regarding the current police station building, which is on the list and is commercial district, how can we make sure that building is preserved as a historic structure. Do we already have controls in place for that, this is important. Mx. Campetti said that the only thing that protects individual historic structures at a local level is local zoning, as a local historic district. We could pass our own zoning to recognize a historic status and use as a criteria for other things. Ms. Gingras said that was all correct.

Mr. Walkovich said that if we are going to continue this to look at definitions, we may want to look at what constitutes adjacent or accessory buildings, we may want to look at limiting it to contiguous lots.

Ms. Morrow said that the Catholic Church may be the only instance where there are three parcels. Perhaps that needs to be clarified in cases where the deeds are combined or not. Ms. Gingras responded that there could be multiple lots for the same municipal or religious use (such as at the Peter Fitz). If a lot is assessed as a single-family residential, it is not going to be under a religious use. Ms. Gingras said there are a couple of churches on the list that have more than lot. That lot was from the Assessor's database. If a lot was being used as a single-family home, it would not be included on that list.

Mx. Campetti asked Ms. Gingras if she needed any clarification on the Board's questions/requests.

Ms. Gingras asked if the Board could clarify a couple of the items regarding accessory structures on lots. She is not clear on what the question is on that. To her it is clear that it means buildings and accessory structures on a lot as long as they're classified under use, if that could be clarified so she can relay it to Town Counsel. Mx. Campetti said the question is, could we better protect ourselves by clarifying what we mean by affiliated structures. Is that accessory structures? Do we want to be more inclusive by saying that affiliated structures includes accessory structures that would be on the same lot, contiguous parcels, parcels under the same ownership for the same use. Part of that is a clarity question, how far would affiliated be under the intent of this? What best suits the intent and is their some language to protect that. Discussion ensued. Mr. Patenaude spoke again on this and said he wants to make sure we are clear and defined. The Catholic Church is a good example to use for Town Counsel. Discussion ensued. Ms. Gingras said she understands. Discussion ensued.

Mr. Patenaude asked if we need to define what underutilized means, what constitutes underutilized, what creates this for a structure, is it instant and is there a better way to define that. Ms. Gingras said she doesn't believe we need to define this and she hasn't seen that defined in any other adaptive reuse bylaw, and this could be left up to the discretion of the Planning Board. Mx. Campetti said she agreed. Discussion ensued. Ms. Morrow asked if the word "vacant" or "underutilized" could be added for a municipal or religious structure. Ms. Gingras said that is covered in the purpose. Discussion ensued.

Mx. Campetti asked for a motion to continue the public hearing on the proposed zoning article to Tuesday, April 19, 2022 at 7:45p.m. So moved by Mr. Walkovich, seconded by Mr. Patenaude. All in favor. None opposed. None abstained.

4. **Reports/Correspondence/Discussion** (none)
(Matters may arise that the Chair did not reasonably anticipate)

5. **Future Meetings:**

- a. April 19, 2022 (Tuesday)
- b. May 2, 2022

Adjournment:

Mx. Campetti asked for a motion to adjourn the meeting. So moved by Mr. Walkovich, seconded by Mr. Patenaude. All in favor. None opposed. Meeting adjourned at 8:11p.m.