



## Planning Board

### Meeting Minutes of June 28, 2022

#### Board Members:

**Present:** Casey Campetti, Al Patenaude, Joyce Morrow, Joan Ladik, Tiffany James

**Not Present:** David Ganong

**Staff:** Jenny Gingras (Town Planner), Cheryl Lutcza

**Attendees:** Pepperell Community Media, Ted Brovitz, Chris Hayes (NMCOG); and members of the public.

#### 1. Call To Order:

**7:00P.M.** The remote public meeting (recorded for future broadcast by Pepperell Community Media) was called to order by Mx. Campetti at 7:01p.m.

#### 1. Reports/Correspondence/Discussion:

*(Matters may arise that the Chair did not reasonably anticipate)*

- a. Discussion on 40-R, Smart Growth Overlay District and Mixed-Use Overlay District

Mx. Campetti explained that this discussion item was on the Board's last meeting agenda, however the Board did not have time to get to it. There will be a public hearing on this discussion item will be scheduled for July. The Board has received quite a few public comments on this.

Mx. Campetti asked Ms. Gingras to provide an overview.

Ms. Gingras said that instead of a Mixed-Use Overlay District (MUOD), there is a proposal to revise the existing the commercial zone to potentially be a "Town Center Zoning District", which would incorporate all of the ideas that have been discussed in the MUOD Working Group sessions. They feel it would be best to keep the 40R separate, due to the comments received, and keep the 40R restricted to very specific parcels and Town owned parcels, i.e., Senior Center parcel and Peter Fitz parcel. Nothing is currently planned on those parcels, but we want to maintain it for the future. Ms. Gingras provided a screen share of the proposed 40R parcels and provided an overview of them. She said that one would be off Lowell Road/Leighton Street., and the developer was originally thinking of doing a 40B project, however the developer is willing to wait to do it as 40R project. The Senior Center parcel could be a 40-unit affordable project for ages 62-plus. The Peter

Fitz parcel has no current plans for residential, however something could be done in the future. The Mill Site could be considered as part of a 40-R overlay. Hotel Place could potentially be a 40R or mixed-use. We are talking about five very specific parcels, instead of incorporating these parcels into the MUOD.

Ted Brovitz provided a presentation via screen share, on the proposed new Town Center Mixed Use Development Base Zoning Amendments (Version 1.0). He said that this reflects the goals of the 2020 Master Plan, 2021 Rapid Recovery Plan, 2020 Complete Streets Plan & Policy and 2021 Housing Production Plan.

Mx. Campetti asked if Ms. Gingras had anything to add.

Ms. Gingras said that they are looking for feedback on how the Planning Board would like to move forward as far as a 40R and the MUOD being converted to a zoning-based district. They really need a decision on the 40R component so that she and Chris Hayes can start working on a draft for a Preliminary Eligibility hearing on Thursday, July 21, 2022.

Chris Hayes said that the recommendation is very close to Scenario A.

Ms. Campetti asked if the Planning Board Members had any questions.

Ms. Ladik asked what the based zoning in the Town Center includes. Mr. Brovitz said the commercial district, the small portion of industrial that is above Main Street, and the Peter Fitz.

Ms. Morrow asked about the timing on a Town Center vs. a MUOD.? Mr. Brovitz said both would require Town Meeting approval and it would be same process/same amount of time. If it is adopted by Town Meeting it would have to be adopted by the State. Ms. Morrow asked if they have seen this adopted in other Towns. Ms. Gingras said that this has been very popular in recent years in other Towns. Ayer has adopted it. Mr. Brovitz said that in the last 10 years, a large number of Cities and Towns have adopted MUOD's and zoning-based districts. Mr. Hayes said that from his experience it has not been too much of a difference to do this in other Towns.

Ms. Ladik asked if these would be two separate zoning articles. Ms. Gingras said a 40R proposal would be separate from a Town Center proposal. Ms. Ladik asked if the 40R would provide environmental protections (as opposed to a 40B). Mr. Hayes said that neither 40B nor 40R override the Wetlands Conservation Act, however with 40R you can add additional controls. Ms. Gingras discussed the differences in Town control with a 40B versus a 40R and that 40R is often used as a way to deter 40B developments coming in.

Mx. Campetti said if a MUOD morphed from an overlay to based zoning, it is very appealing to her. She asked how tethered together, do they foresee a smart growth overlay district approved and the potential for changing the underlying zoning. Are there potential downsides if we find ourselves in a situation where there hasn't been enough time to get public input? Would we miss out if they are on different timelines. Mr. Brovitz said he feels the Town Center Base Zoning is more important. Mr. Hayes said that he feels that it is an advantage to have two separate articles. Mx. Campetti said that there has been a goal for as long as she can remember, to overhaul the zoning, which is complicated. What would be the detriment or benefit to look at this potential for the base in zoning individually. Mr. Brovitz said he doesn't know much about the other residential areas in Town, however if you are going to start with the zoning the biggest impact would be with the Town Center. If you leave it as a MUOD, a developer could make the choice between a really

nice mixed-use development or do something cheaper and quicker. Mx. Campetti asked what the plan would be for using the MUOD Working Group going forward. Ms. Gingras said that this would be brought back to the Working Group for review. After this meeting she will be sending it out to the public.

Ms. Ladik said that historically the Town of Pepperell had businesses on the lower level and residences on top. This is just reverting back to what we had originally. With the based zoning we could get back to a Town Center as we had in the past. Mr. Brovitz said exactly. Mr. Hayes spoke as well.

Mx. Campetti said the purpose this evening is for a Planning Board discussion, and they will not be taking comments, however she welcomed people to submit comments via email and asked to keep Chat disruption during this meeting to a minimum.

Mr. Patenaude said that after looking back and forth at different options keeping 40R separate would be key in helping the public. Most of the locations being identified tie out to locations that the Affordable Housing Committee (AHC) had identified. He asked if when you are looking at a 40R rental, what would be the count towards affordability. If there were 50 units being built how many of those units would count towards the Towns affordable number. Mr. Hayes said that 25% of the rental units need to be affordable at 80% AMI. Mr. Patenaude asked if of those 50 units 25% would have to be rented out affordably, but the entire 50 get counted towards the count. Mr. Hayes said yes, if they are rented out to people making 80% of the median income (set by HUD). Mr. Patenaude gave examples of 40B's sale projects, and the number of affordable units gained. The 40R, if utilized in a rental format, can be greatly beneficial to the town in regard to control, as well as the numbers and gains in affordable unit counts. Mr. Patenaude said 40R's are more beneficial than 40B's. If we have housing production going with 40R's, we will gain control over potential future 40B's. He said Town Center Zoning is a clear path and the common sense, better direction to go, although he feels people may be concerned with the number of changes. We have to be careful with MUOD or Town Center Zoning in regard to how a neighbor will be impacted if an abutting property is torn down and rebuilt. We have to look at realistic setbacks that are typical to what the setbacks are on the present structures in existence. He said his preference is Town Center Zoning, but we have to be careful we don't go to big too fast.

Mx. Campetti said she shared some of the concerns Mr. Patenaude expressed. She is confident if we go down this road it would "shake out" with continued discussion by the Working Group and public discussion. If this ends up being one of the first underlying zoning district changes, its important to get that process started off on the right foot and there is "buy in" in the discussions to follow. She believes this is a good concept and reflects some of the values we want for our town center. She spoke on the proposed 40R and the concerns that have been expressed, as well as the 40R process (public hearing, etc.) and timing up to Town Meeting. She asked if we do the submittal for the preliminary eligibility and we continue to do public outreach, even beyond Planning Board meetings, what kind of changes could be made after that eligibility determination and Town Meeting. How locked in would we be with particular language and parcels, and how much wiggle room would we have to be responsive to public comments. Mr. Hayes said he doesn't have a great answer on this, his experience with DHCD is that they want to make sure the community is fully on board. So ideally, when you submit the preliminary eligibility application, you are filing the draft final language and parcels that you would be bringing to Town Meeting. DHCD reviews for 90 days and then says yes or no. There is some wiggle room with DHCD for submitting changes, but he doesn't have an exact answer. Mx. Campetti asked if we get the determination eligibility in July, what is the "shelf life", could we have the option to move to

Spring Town Meeting if need be. Mr. Hayes said he doesn't know for sure, but there isn't a "shelf life" for days. He said he can double check on that. The risk is that potential developers interested in doing a 40R, may not wait and decide to go forward with a 40B instead. She asked if a July eligibility is a date for this year. Ms. Gingras said that the timing (July) is due to the Fall Town Meeting date. Mr. Brovitz said not making it to Fall Town Meeting shouldn't be an issue. Mx. Campetti asked if it wasn't feasible for Fall Town Meeting, and we did through further public meetings and made significant changes, would we need to submit a new application.

Ms. James asked how easy is it to do the 40R. Ms. Gingras said the 40R process would be a separate zoning article and we would include just the parcels the Planning Board wanted to include and would be separate articles and hearings. Ms. James asked if the Board wanted to explore the Town Center Based Zoning, would that be a separate article that the Planning Board would discuss. Ms. James asked if we go with the 40R, is there a certain amount of 40R residences that would be needed to block out a 40B. Mr. Hayes discussed the differences between a 40B and a 40R, etc., and the benefit of 40R over 40B, and how 40R works. Discussion ensued. Ms. James asked how the 40R would work for seniors and their restrictive incomes. Mr. Hayes said a 40R District can allow senior housing, but you cannot require it or restrict age. He said you can specify a high-level of affordability. Discussion ensued on what affordable really means in the Pepperell area. Mr. Hayes said that the Pepperell Housing Production Plan would provide more information (on the Planning Department Page). Ms. Gingras said that she has put information on 40R and HUD on the Town website.

Mx. Campetti asked about concerns with Town resources and conservation with 40R, and what control we would have with a 40R vs. a 40B development Ms. Gingras discussed the Leighton Street property and said that the developer had expressed interest in doing a 40B but has agreed to patiently wait to see if we can get a 40R passed. Ms. Gingras said she doesn't want to push this out further than we need to. She said that she really can't give examples at this point, but she does have developers contact her regarding large parcels in Town as potential 40B developments, some of which are in rural areas. By adopting a 40R Bylaw, sooner rather than later, we would have a "leg up" as a substantial reason for denial if we have a 40R in a concentrated area near the Town Center district rather than a 40B in a rural area. Ms. Gingras said this is preserving rural Pepperell.

Ms. Ladik asked if there is a possibility of getting a 40S, money coming to the schools if we get a high influx of children with a 40R. Mr. Hayes said the benefit of 40R over 40B would be 40S payments. He said that he currently knows that three towns receive these payments.

Ms. James said that she is leaning towards keeping the 40R with the request for the MUOD.

Mr. Patenaude said that the potential developer for the Leighton Street project is not a first-time 40B developer and has successfully done them elsewhere and has the capability to do a 40B if the 40R isn't put in place. Ms. James said that the 40R has a lot of incentives. Discussion ensued. Mr. Patenaude said that a 40R gives the Town more control to benefit the Town, if written properly. He said the DPW would have numbers on the maximum expansion for Town sewer and capacity of Town wells. Ms. Gingras said that she did reach out to the DPW Director and Business Manager and spoke with them. There is plenty of sewer capacity. We are working with the potential developer on Leighton Street to understand his plans and the water capacity. This is something that Town Staff is looking at so they can arrive at a final answer for the public. Mr. Patenaude spoke on capacities and not running out of capacity to develop other parcels.

Mx. Campetti spoke on comments the Board has received that 40R was being rushed and suggestions by the members of the public to engage in further study on impacts. Mx. Campetti asked Mr. Brovitz and Mr. Hayes if other Towns that have adopted or looked at 40R have undergone these types of studies. Mr. Brovitz said no, and it is typically done on an individual, site by site basis. Mr. Hayes said he agreed with Mr. Brovitz. He said that the only thing he has seen Town do is maybe a traffic study, depending on the size of the project. Discussion ensued. Mx. Campetti asked about public involvement, from this point forward, if we decide to go forward with separate SGOD and separate mixed-use concept/base zoning. Has there been any thought on what type of public engagement is needed to make sure we are getting meaningful public engagement and people have the opportunity to participate?

Ms. Gingras said she plans to hold some public engagement sessions during the summer. She is also available via email, in person at Town Hall, or via appointment. There will be some formal workshops and information on the Town website. Mx. Campetti said that she would be supportive of having some different locations for the workshops, maybe the Senior Center, etc. Ms. Gingras said she believes in transparency and openness for the public and that is what we are going to do.

Ms. Morrow asked if we could have a Civic Engagement night on these topics, remotely as well, for people who cannot attend in person. Ms. Gingras said she planned to set up at least one or two civic engagement nights/group discussions for people that want to attend virtually or in person.

Ms. Morrow said to those that were attending in the audience that the Planning Board are not the “bad guys” and are trying to help the Town, and these proposals were the result of the Visionary Sessions held during the Master Plan process. The Planning Board has spent the last several months trying to accommodate the wish list that came out of the Master Plan.

Mx. Campetti said this is not an Action Item, however we need to provide some clear direction on the best way to keep going with this. She said that based on what she is hearing, there are some timeliness concerns to this, and we need to put in the effort to try to make this work. She said she would also not have any qualms about not supporting bringing this to Fall Town Meeting if there isn't enough time to settle concerns in a meaningful way, however she doesn't want to see us stop moving forward with this. This Based Zoning Concept looks promising, and it makes sense to keep them separate. She is amenable to continuing to plan to have a hearing on SGOD in July, and this should be the first of many public hearings.

Mr. Patenaude said that he thinks the smartest thing is to keep the two proposals separate and concentrate on them separately. Identifying spot locations is a good starting point. As for the MUOD and Town Center, he is still trying to figure out what is a better approach, and we could probably go either way.

Ms. Ladik said she likes the Town Center Zoning and the 40R with specific parcels. They should be two separate articles. Ms. Morrow said she agrees with Ms. Ladik and that both are needed in Pepperell and will make Pepperell better than it currently is.

Mx. Campetti said that this is “fleshed” out enough to see the concept, but this will continue on with the Working Group and the public. She discussed timeline and public involvement. Ms. Ladik said she would like to see this continue in July and continue to Town Meeting. Ms. Morrow said she concurred. Mr. Patenaude said this isn't something that just popped up, and the Affordable Housing Committee has worked on this for a long time, and he believes moving forward with this is good.

Mx. Campetti said that she appreciates the collective work that has gone into this by everyone in trying to figure out what works for Pepperell. Ms. Gingras said that she is good with this and appreciates all of the feedback from the Board and the public. She said that we will continue to work on the Town Center proposal and the 40R proposal separately and work on getting a draft to the Planning Board, public and other Town Boards and Committees.

Mx. Campetti thanked Mr. Brovitz and Mr. Hayes.

Mx. Campetti encouraged those who wrote in the Chat to email the Planning Department with questions/comments.

**2. Future Meetings:**

- a. July 5, 2022 (Tuesday)
- b. July 18, 2022
- c. July 21, 2022 (Thursday)

**3. Adjournment:**

Mx. Campetti asked for a motion to adjourn the meeting. So moved by Ms. Ladik, seconded by Mr. Patenaude. All in favor. None opposed. Meeting adjourned at 9:06p.m.

Planning Board Meeting Minutes of June 28, 2022, respectfully submitted by Cheryl Lutcza