



Affordable Housing Committee Meeting Minutes

Date: July 19, 2022

Time: 7:00 pm

Location: Remote

Attendees: Chairperson, Brian Keating; Clerk, Lora Woodward; Members: Renee D'Argento, John Ladik

Guests: Sherrill Rossoff, Cathy Lundeen, Caroline Ahdab, Dave Lavender

- **Call to Order**

7:07pm by Chair, Brian Keating

- **Acceptance of Minutes of any previous meetings**

- John Ladik makes motion to accept the meeting minutes of 6/14/2022; Renee D'Argento seconded. Vote was 4-0; Motion passes unanimously.

- **Continued Discussion of Smart Growth Overlay District (Ch. 40R) Analysis**

- Brian asked if everyone read the Town Engineer Ken Kalinowski's letter to Department of Housing and Community Development (DHCD)
- Renee said she had.
- Brian shared that it is important to acknowledge that just because we adopt 40R doesn't mean we are going to build 800 units in one year.
- Renee read a letter into the record.

To: Affordable Housing Committee

From: Renee D'Argento, Affordable Housing Committee member, Climate Change Committee member

Date: July 19, 2022

I am writing this as an individual. However, the context of this letter is related to my experiences of being a member of town committees including the Master Planning Committee. My perspective is shaped by the many public visioning sessions in which residents expressed their desire to prioritize sustainability and resiliency against Climate Change, including the protection of our water supplies.

The proposed Leighton property consists of numerous high quality resource areas entirely within our Jersey Street Well Aquifer Protection Zone.

It should be noted that the proposed public safety building is located in this area creating a complex of buildings that include the Jersey Street fire department and Lowell Street post office. The proposed 40R will be located on land directly behind the VFW, accessed off of Leighton Street.

The entire Leighton/Lowell/Jersey Streets location is in an Area of Critical Environmental Concern. Specifically, the proposed development site consists primarily of Reedy Meadow River, classified by Department of Fish and Wildlife (DFW) as a Coldwater Fishery. The site also includes conservation sensitive resources such as Bordering Vegetated Wetlands including Deciduous Wooded Swamp, Flood Plain, and other hydrological connections. Finally, the proposed development site is part of a larger wetland complex that includes, in addition to aforementioned sensitive resources Deep Marsh, Shallow Marsh-Meadow or Fen, Coniferous Swamp, Mixed Swamp and intact Prime Forest Land.

In short, its pristine.

Pepperell devised its Wellhead Protection Plan in 2004 following the Massachusetts Source Water Assessment and Protection Report (SWAP) in 2002. The Report notes that inappropriate land uses brought by residential and commercial development, and associated road development are the greatest risks for our Aquifers. The problem is that our gravel packed wells are “located in an aquifer with high vulnerability to contamination due to the absence of hydrogeologic barriers (i.e., clay) that can prevent contaminant migration.

The Center for Watershed Protection developed the “Impervious Cover Model” which has been supported by over 200 studies. It is based on a 10% (or less) required impervious surface to protect water quality, as development of these sensitive areas are very susceptible to contamination.

If impervious thresholds rise above 10% in these small watershed areas, irreversible damage to drinking water quality and wildlife habitat can occur. The Center also states that even when effective best management practices are used to mitigate the impacts of impervious cover, once an impervious threshold is crossed, predevelopment water quality cannot be maintained.

Groundwater is our only water source and these undisturbed wetland resources and mature forests that our located within our Aquifer Protection Zone at the proposed site are essential to protecting the quality and quantity of our drinking water. These valuable resources provide groundwater recharge (natural absorption, cleansing, and infiltration into the aquifer), mitigate localized climate change impacts to our urbanized area (absorbing carbon, mitigating excessive heat impacts, and flooding), and preserve wildlife habitat. Indeed, the Trust for Public Land values forest protection at one dollar spent saving two dollars in treatment costs.

Speaking of cost, considering that climate change is contributing to the worsening drought problem each and every year, the content of the DPW letter is extremely troubling:

- Build out **estimated at the lower end of build out,** of 611 units servicing the (5) 40Rs will use up **ALL** the capacity left for public water supply.
- The Jersey Street well is under significant threat of closure for PFAS. The DPW states that “DEP will likely update PFAS requirements in the near future”.
- DPW states the potential need to upgrade treatment of our water supply for both Nashua well (closed due to PFAS) and Jersey Street well at a cost of \$30-\$40 million!

The DPW letter is preposterous even with the caveat of significant upgrades. The proposed buildout of 611 units conservatively will greatly exacerbate the problems at a significant cost to our water supply. The scenario of using up all of our water supply capacity, the potential cost, as well as risk of contamination, all in a rush to construct these 40Rs, particularly on Leighton over our water supply in the Aquifer Protection Zone is just irresponsible.

The Trust for Public Land notes that our region is under great development pressure, with Massachusetts expected to grow by more than 25% over the next decade. And, that Brookline and Hollis New Hampshire are projected to grow between 70 and 140%. The issues we are addressing in Pepperell today bear this out.

In conclusion, it would be unwise to push forward with support of the 40Rs (and that number of units) until current and future water supply planning is done, as well as Climate Change and other environmental health risk analyses. Additionally, in an already densely developed urbanized area, it would be reckless to develop the Leighton Street site, and adversely change forever these valuable resources that do so much for us. Instead, the town should work to permanently protect them for the benefit of Pepperell residents.

- Brian shared that we need to address the concerns that Renee brought up
- Renee asked what is the threshold for using up our water supply capacity?
- Brian shared that if we adopt 40R we accept an incentive payment up front; no one is expecting all the housing to be developed in a single year
- Cathy stated that whether the Leighton Street developer builds a 40R or not, he’s going to build something, he’s going to build a 40B; we’re looking at those houses, that’s the bottom line
- Sherrill shared that she read a Citizens’ Housing and Planning Association (CHAPA) report about municipal experiences with 40R; Sherrill said that 40Rs are fast tracked unlike 40Bs
- Brian shared that town gets \$350,000 bonus payment up front and then gets \$3000 per unit, which is the density bonus
- Sherrill shared that she is the co-chair of the Ag Commission and has concerns with water utilization in the town, including farms; She stated that housing and farms are both part of a town’s hydrological system; farms need town water; She brought up the “clawback” clause in 40R which she says means that DHCD will take back the incentive payment if remediation isn’t done; She continued that “a lot of people” are concerned with the town’s water

- Renee shared that more risk analysis is needed and that it would be better to go project by project
- Brian shared that just because the 40R is set up doesn't mean the developments will be developed right away; if we have development happening where we want it to happen as with a 40R then it includes site plan review and there are engineering solutions to have net zero increase of impervious area; if we feel that the water protections are inadequate then that is what should be addressed
- Renee said that mitigations are not good enough; In a 40B, then it goes through the Zoning Board of Appeals (ZBA) and there are multiple public meetings, and it creates local control
- Sherrill shared her experience working on the ZBA and how they pushed back on a 40B development; she expressed concern with the appeal process on a 40R
- Brian shared that it is "by right" appeal
- Sherrill says that it makes it hard for an abutter to challenge a 40R; the abutters must pay for it out of pocket, unlike 40B, where town resources are used
- Brian shared that that doesn't sound logical to him; Brian shared that there is more local control over 40R; the 40B or 40R is going to happen regardless
- Sherrill shared that most towns don't do multiple 40R overlay districts in one go
- Brian shared that we have a housing crisis in the state which is why 40R and Community Preservation Act (CPA) initiatives have been developed as innovative solutions
- Sherrill says she is for affordable housing in Hotel Place and other infill opportunities; and she wants senior housing; she says that 40B is not "the devil" that is being discussed
- Brian asked, "Does the affordable housing committee support the adoption of 40R?"
- Renee shared that she is supportive of 40R in Hotel Place
- Brian clarified whether Renee thought the Leighton Street property should be off the table; she did.
- Sherrill brought up the Peter Fitz, and then shared that FEMA maps won't come out until spring town meeting of 2023 and the Mill Street site would be affected by the maps; She does not believe it is a suitable 40R site; She suggested having Conservation Commissioner, Paula Terrasi, attend a future AHC meeting; She continued that the flood plain is important to Peter Fitz site;
- Renee shared that any rules and regulations would apply to 40R and would be considered town wide
- Sherrill would limit 40R to the Town Center and Hotel Place; for the senior center, she believes a 40B allows senior housing; She encouraged the committee to look at the appeal process to 40Rs.
- Renee shared that the senior center site is great for senior housing
- John shared that he was hearing "a lot of negative concerns rather than solutions." He asked whether there are safeguards in place to protect the environment? He has not seen a complete write up of the 40R, and he is hearing a lot of worst-case scenario thinking.
- Brian shared that he felt that this discussion was indicative of the need for cross-communication among committees; he was surprised to hear the concerns being raised. He then asked who can substantiate the claim that the built-in protections are inadequate?
- Renee said that there shouldn't be any building over a watershed protection zone.
- John asked if there was a law against it.

- Renee said that it doesn't matter if there is a law against it.
- Renee asked if the AHC could state what it definitively supports; she suggested a 40R in the town center, possibly Mill Street, possibly the Senior Center; She said that 40Rs opens housing up to anyone and 40B allows for elderly housing; Renee said that we want "friendly-40Bs"
- Brian said that we can't specify we want only "friendly-40Bs"
- Brian is all in favor of a motion that says we are for 40R and possibly takes out some of the sites
- Lora shared that she is in favor of the 40R as a tool in the toolkit for affordable housing as outlined in our Housing Production Plan and that she is in favor of the current version of the proposed bylaw.
- Brian shared that if aquifer is in danger, then that needs to be addressed in the site plan review
- Sherrill said that the AHC should have a conversation with ConsCom and reach out to abutters of the Peter Fitz that have had experience with the Town proposing housing there
- Brian shared that this discussion should be happening at a much higher level; Are you having these conversations with the Planning Board and Select Board?
- Sherrill said that she's asked, "what is the rush?"
- Brian asked, "is there ever a good time?"
- Sherrill says that there is a report that says that Town Planners think this will happen in 1-2 years
- Renee said that she has been having anxiety around it
- Brian asked if we could have cross-committee meetings; should there be joint meetings to address these concerns? It seems we are operating in silos; we need a joint understanding that helps us reach our affordable housing goals; we shouldn't be impeding the work that has been happening for 40R; he then asked whether the committee is accepting the proposed bylaw as it is written now?
- Renee wants affordable housing at 25% rentals so they all count for affordable housing count; at appropriate sites: hotel place, town center, AI's development, senior center, mill site. To her not all sites are appropriate
- Brian asked should we make a motion to support the proposed 40R bylaw as it is written, or do we need to continue discussions to revise the map? The Town doesn't have to accept what is being presented at each site; there still needs to be site plan review; with 40R it is housing by right
- Renee said that to approve all sites is crazy to her; 1-2 sites at a time
- John makes a motion for the Affordable Housing Committee to ask the Planning Board to invite the Conservation Commission to make a public statement to discuss the rules and regulations around the environmental impact related to building on or around aquifers. Renee seconded the motion. Vote was 4-0; Motion passes unanimously.
- Renee shared her knowledge about aquifers.
- Brian asked why conservation commissions are allowing buildings over aquifers.
- Renee said that it is not acceptable to go over 10%
- Brian said there's already an arbiter for deciding whether buildings can go over an aquifer. Where is DEP on this?
- Brian will contact AI Patenaude, Planning Board Chair, with the motion.

- **Planning Board Hearing**

- Brian asked, What are we supporting at Thursday night's Planning Board (PB) meeting as the AHC?
- Renee said that she liked Brian's letter but not all the proposed sites for 40R
- Brian asked if we should make a motion to support the 40R as proposed at this point? Renee said no, John said yes, Lora said yes, Brian said yes.
- Brian asked, how can we entertain the concerns that are being shared?
- *Sherrill chatted, "sherrill rosoff - 4 Lawrence Street. I will go back to the Agricultural Commission to let them know that the Affordable Housing committee is recommending a 40R at the Peter Fitz. I don't know if this will impact how the Commission considers its work with the Fitz Collaborative going forward with the implementation of a food hub and commercial kitchen at the Peter Fitz. A 40R will destroy a chunk of the building and the back yard playground which is the site of community activity, businesses, and conservation wetlands.*
- Brian doesn't feel that he can make a statement without knowing more about how the concerns that have been raised are being addressed, especially since Sherrill said that no one was responding to her concerns.
- Lora shared that we need to advocate for affordable housing; 40R is one of the tools. These concerns will come up in the PB meeting.
- *John chatted, "I think you are going off the deep end with your last sentence. Just redo the lot lines.*
- John said that Jenny is responding to letters.
- Brian said that he is taking Sherrill at her word that she isn't getting responses.
- Brian will read his statement at the Planning Board meeting
- Lora, John, and Renee said they will send him feedback directly
- *Sherrill chatted: That has not been suggested by the town planner and I would like the Affordable Housing Committee to explore what it means to redo lot lines - and remember that if you redo the lot lines you are shrinking the potential building footprint for an affordable housing. I am not opposed to affordable housing, but I am opposed to compromising a community asset when other options are on the table.*
- *Cathy chatted, IN the end Town Meeting will decide. More clarity is needed. A long time until November. Either way 40 b can be built*
- *Sherill chatted "that's true*
- *Renee chatted "true Cathy*

- **New Business**

- None

- **Next Meeting**

Set for Tuesday, August 9, 2022 at 7:00 p.m.

- **Adjournment**

Motion to adjourn made by Renee D'Argento; Seconded by Lora Woodward.
Voted 4-0; Motion passes unanimously. Meeting adjourned at 9:05 pm.