



Planning Board

Meeting Minutes of July 21, 2022

Board Members:

Present: Al Patenaude (Chair), Casey Campetti, David Ganong (Clerk), Joan Ladik, and Tiffany James

Not Present: Joyce Morrow

Staff: Jenny Gingras (Town Planner), Cheryl Lutzka

Attendees: Gerald Couper (PCM), Gerald Couper (Pepperell Community Media), various members of the public and Town staff/officials.

1. Call To Order:

7:00P.M. The remote public meeting (recorded for future broadcast by Pepperell Community Media) was called to order by Mr. Patenaude (Chair). The Chair that the meeting is being conducted via a hybrid format. The meeting materials will be provided on screen and are available to the public via the Planning Department webpage.

Mr. Ganong read the Notice of Public Hearing into the record.

2. **7:05P.M.: Public Hearing: Consider a Proposed 40R Smart Growth Zoning District and the Submission of an Application for Preliminary Determination of Eligibility for 40R Zoning:**

Pursuant to Chapter 40R of the Massachusetts General Laws, and the associated regulations, specifically 760 CMR 59.05(1), the Planning Board will hold a public hearing on Thursday, July 21, 2022 at 7:00 PM to consider a proposed Smart Growth Zoning District and to consider the Board's submission of an Application for Preliminary Determination of Eligibility for 40R Zoning to the Massachusetts Department of Housing and Community Development. The proponent of this district is the Town of Pepperell. The properties to be affected by the creation of this District is comprised of properties at: 59 Groton Street (Assessor's ID 26-71-0), 1 Hotel Place (Assessor's ID 26-93-0), 3 Hotel Place (Assessor's ID 26-96-0), 4 Hotel Place (Assessor's ID 26-97-0), 4A Hotel Place (Assessor's ID 26-106-0), 5 Hotel Place (Assessor's ID 26-95-0), 6 Hotel Place (Assessor's ID 26-90-0), 59 Leighton Street (Assessor's ID 29-158-1), 59A Leighton Street (Assessor's ID 29-187-0), 41A Lowell Road (31-18-0), 37 Nashua Road (Assessor's ID 25-22-1), 45 Main Street (Assessor's ID 23-147-0), 45A Main Street (20-48-0), 5 River Road (Assessor's Parcel ID 23-150-0), 23 Mill St (Assessor's ID 26-206-0), and 128 Main Street (Assessor's ID 26-32-0). Please see the Calendar on the Town of Pepperell Homepage (posted 48 hours prior to the Public Hearing) for a link to access this remote meeting from your phone or computer. A copy

of the draft application, plans, and other materials are available for review at the Town Clerk's office or the Planning Board Office at Town Hall, 1 Main Street, Pepperell, MA during normal business hours or on the website at <https://town.pepperell.ma.us/424/Zoning-Articles>. Persons unable to attend may submit comments in writing to the Pepperell Planning Board by Friday, July 15, 2022.

Mr. Patenaude announced the GoTo Chat function would not be utilized this evening and questions would not be answered via the chat function.

Jennifer Gingras (Town Planner) gave a presentation on the 40R Smart Growth Zoning District proposal and provided screen share of the presentation as follows, which provided an overview on the following:

- What is Affordable Housing?
- What Qualifies as Low Income?
- Problem and solution: Affordable Housing in Pepperell and Housing Production Plan
- Does Pepperell already have Affordable Housing?
- Housing in Pepperell to Promote Town's Housing Goals
- In a Nutshell 40R is...
- Full Benefits of 40R Districts
- Where is 40R Currently Working?
- What is the Pepperell 40R Bylaw?
- Where Would the 40R District Apply?
- How Overlay Zoning Works?
- Why a 40R Bylaw Now?
- How Does 40R Compare to 40B?
- Planning Board Site Plan Rules & Design Guidelines
- Design Guidelines – Building Design
- Design Guidelines – Landscape and Streetscape Design
- Additional Design Guidelines
- Reasons to Adopt 40R Zoning
- Chapter 40R Designation Timeline
- Planning for Fall 2022 Town Meeting (there will be public outreach/information meetings)
- Next Steps

Mr. Patenaude asked if the Planning Board Members have had a chance to review the proposed Smart Growth Overlay Bylaw sections. Mr. Patenaude said he would like to go through the sections of the proposed zoning bylaw individually and see if the Board Members have any concerns. Ms. Gingras provided a screenshare of the following sections:

Section 9031: The PB Members did not have any questions on this section. Mr. Patenaude said that as he read through this section that it allows the Board to set a rate for phased growth limitation.

Section 9032: Mr. Patenaude said that this pertains to underlying zoning, which still applies. The SGOD is just a layer on top of and every project that comes through does not have to go under the 40R Zoning, if approved and accepted.

Section 9033: No Board Member questions/discussion

Section 9040: No Board Member questions/discussion

Section 9050: No Board Member questions/discussion

Section 9051: Mx. Campetti asked if the proposal was to keep affordable housing rate for the SGOD at 25%. Mr. Patenaude said that was correct.

Section 9052: Mx. Campetti asked if the Housing Authority would be the monitoring agent. Ms. Gingras said that is typical and the Planning Board could choose the local Housing Authority to monitor.

Section 9053-9055: No Board Member questions/discussion

Section 9056: Mr. Patenaude said that 9056A will be labeled in perpetuity, not at the minimum of 30 years.

Section 9057: No Board Member questions/discussion

Section 9058: Ms. Ladik said that age restriction would be allowable for a project near the Senior Center. The developer does not have to adhere to this.

Section 9059: Mr. Patenaude said that phasing, being allowed under 40R is an important difference over a 40B.

Section 9060: No Board Member questions/discussion

Section 9070: Mx. Campetti asked what could be edited after submitted to DHCD, based on public input and feedback. Mr. Patenaude said from his understanding it could as long as it wasn't a drastic change.

Section 9072: No Board Member questions/discussion

Section 9073: Mr. Patenaude said he felt that this section was important to zoning standards. It would allow the PB to review and blend a project to an existing neighborhood

Sections 9080-9081: Mr. Patenaude said he was not a big favor of having the word "more" parking in 9081. He asked if the Board Members had any questions with striking the word "more". Discussion ensued. Consensus was to leave "more" in this section.

Section 9082: No Board Member questions/discussion

Section 9083: Mx. Campetti said she is trying to figure out how this "jives" with Section 9081. Lengthy discussion ensued on this section.

Section 9084: No Board Member questions/discussion

Section 9085 (and subsections): Ms. Ladik said she liked this section.

Section 9100: Mr. Patenaude said under "circulation to other boards" Historical Commission, Affordable Housing Committee, Climate Change Committee were missing. Ms. Gingras said that applications are pretty much circulated to every Board, Committee and Commission. Mx. Campetti asked about the filing requirements and is there a process for determining the completion of the application packet. Can we have some initial level or review prior to an application being certified and accepted as the Town as complete. Ms. Gingras said that is going to be addressed and put in place at a future meeting. Applicants

do a pre-submission meeting with Ms. Gingras. Ms. Campetti said a pre-application is not required and could someone go straight to the Town Clerk with an incomplete application. Ms. Gingras said the regulations would state that a pre-application review is required with the Town Planner, or another person or party that the Planning Board would deem appropriate prior to application submittal. Discussion ensued.

Section 9110-9115: Mr. Patenaude said that project phasing is critical

Section 9120: Discussion ensued on it being good to have clarity between minor and major. How can we insure that the contractor(s) will give the changes to us before they do the work? Lengthy discussion ensued.

Section 9130: Discussion ensued regarding Design Standards.

Sections 9140-9143: Mr. Patenaude said that this section details why a 40R is better than a 40B. Ms. Campetti said that she would prefer that the number of residential units (greater than 50 residential units) within any SGOD be a lower number (in Section 9142). Discussion ensued. Mr. Patenaude said he couldn't find a reason to change the number of 50 residential units.

Section 9144: No Board Member questions/discussion

Section 9145: Board Members felt this section was covered well.

Section 9146: Mr. Ganong said this could address concerns with climate change and wetlands. Mr. Patenaude asked if the Board could identify carbon offset or trees in this section. Could we consult with Climate Change Committee on this? Mr. Ganong said Design Standards would be an ideal place to cover this. Ms. Campetti said the most important part is the feedback. She wants people to be confident with somethings that are really set in stone, in the zoning, as opposed to design standards, which need to be approved by DHCD as well.

Section 9147: No Board Member questions/discussion

Section 9148: Mr. Patenaude said that he liked this section

Section 9150: No Board Member questions/discussion

Section 9200 (and subsections): No Board Member questions/discussions

Section 9220: No Board Member questions/discussion

Section 9230 (and subsections): No Board Member questions/discussion

Section 9240 (and subsections): Mr. Patenaude spoke on Section 9241, setting of specific number not to exceed 180, and if the Board wanted to allow more than 180 units for a future project. Ms. Gingras said the Board can set a density or actual number at future point if another project site was brought to Town or Town Meeting floor and could be adjusted at that time. Ms. Ladik asked if it has to be a specific number. Discussion ensued.

Section 9300 (and subsections): No Board Member questions/discussion

Mr. Patenaude asked if any of the Board Members had any questions/concerns. None.

Mr. Patenaude said that he was going to open up the floor to the public, however he would like to do it in an orderly fashion. Ms. Gingras said that if anyone in the virtual room wanted to make a comment, please put your name and address in the chat function so she can call on you.

- Rob Rand, 77A South Road, asked if this document is a new zoning document that we are talking about. Mr. Patenaude said this is Section 9000, the Smart Growth Overlay District, which is a new, proposed zoning article.

Mr. Patenaude asked if there were any questions from the public on Sections 9030, up to, but not including Section 9070:

April Healey (no address provided) said that she was really upset about this meeting. The public hearing was registered at 7:00p.m., and the public has had to wait one hour and 40 minutes to be able to make a comment. The Board has gone through a whole document without explanation. Mr. Patenaude said that the Board has not made any decisions and they have gone through each section as a Board, and this is a posted public hearing. Ms. Healey said she disagreed; this was advertised at 7:00p.m. Ms. Healey said she cannot find the document on the website. Ms. Gingras said the link to the document is on the legal notice. Mr. Patenaude read the link from the legal notice.

Charlie Ellis (9 River Road) said that some of the links are not active on the website unless you register with the Town website.

Renee D'Argento (Prospect Street), Asked about the DPW letter. Mr. Patenaude said we are not into that section yet. Ms. D'Argento said the DPW letter does not refer to particular sections. Her question is according to the letter, they are using 611 units for five 40R's, and they say all the capacity left for public water supply will be used. It will cost \$30-40million. At what point does the Planning Board start with the water supply planning. Mr. Ganong responded and said that impacts and solutions could be looked at on a project-by-project basis. Mr. Patenaude agreed with Mr. Ganong. Discussion ensued.

Sherrill Rosoff (Lawrence Street) asked what the Board's understanding is of DHCD's ability to claw back the zoning incentive payments (Section 9215) in 40R. She provided further information on that. Ms. Gingras said that it is true that DHCD can take back the payment if no building has been done in three years, however it has not been done in the history of the program. Chris Hayes (NMCOG) said he believes that is accurate. He said that if the Planning Board chooses to submit the predetermination of eligibility to DHCD, it will be worked out what the incentive payment will be. They only give incentive payments for projects they believe are moving forward quickly. Mr. Hayes elaborated on this topic. Mr. Patenaude asked Mr. Hayes if DHCD would/could pull back money for projects not actually constructed. Mr. Hayes confirmed and elaborated on this. Mr. Ganong spoke on the legislation and a Bill that is in the House right now. Ms. Rosoff asked if the Planning Board can provide more information and detail about what is meant about Site Remediation, etc., as this is a gray area, and the Planning Board should be clear on this. Mr. Ganong spoke on the Mill Site, as an example, and the impacts of contamination on that site and how that would apply in regard to a 40R. Ms. Rosoff spoke on the section pertaining to affordable units and what is the guideline for 40R. Ms. Gingras said if the Housing Authority becomes the monitoring agent it would be set up with their guidelines. She asked Mr. Hayes if he had an answer on this and he said he would have to research this. Brian Keating (34 Lowell Road), of the Affordable Housing Committee said both 40R and 40B are subject to the same Fair Housing Marketing Laws. He said that the whole question of the claw back relates to towns which are deemed to be acting in bad faith. Ms. Rosoff said that in reading CHAPA's 2018 Report, which reviewed towns that adopted 40R and their experience with 40R, that a number of towns decided not to pursue 40R. Discussion ensued.

Cathy Lundeen (3 Province Street) asked if the Board could please explain 40B a little bit better, because we are deciding with this document whether to adopt 40R. She said that Mr. Lorden will be building whether it is a 40R or a 40B. The Board said that the developer, Mr. Lorden is present, and has a presentation he would like to give.

Gary Lorden (Townsend, MA) addressed the Board and audience. Mr. Lorden provided an overview of his business experience regarding 40B for sale and for rent units and said he has done 40B projects in Lunenburg and Townsend. He gave a presentation on 40B Affordable Housing and 40R, from a developer's perspective, also providing a screenshare of his presentation.

Mx. Campetti said that she believes we have strayed from the topic. Mr. Patenaude agreed.

Sherrill Rosoff said that she was a past member of the ZBA for quite a number of years and worked on the Bayberry 40B and she has to take issue of some of the stuff she's heard tonight regarding local control. The Planning Board does have a choice here, 40R vs. 40B. The 40B does provide, via the ZBA process, a lot of local control with input from other Boards/Departments and can include conditions, etc. Mr. Patenaude agreed 40B was not all negative, however 40R gives a clearer pathway. Discussion ensued.

Quinton Cutler (Bacon Street) was wondering if an analysis has been done on the potential of 180 units on school enrollment and the potential increase in school costs. Mr. Patenaude responded and said that doing an analysis is one of the items that is allowed under the 40R draft, and the developer would need to provide that. With a 40B, that type of detail is not provided by developers. Discussion ensued.

Rob Rand asked Ms. Gingras about Mr. Kalinowski's letter and said there is an error in it. The error is on page 2, last paragraph regarding Pepperell's peak demand. It should say "cannot" exceed, not "can" exceed. Mr. Rand asked if Ms. Gingras could check into this with Mr. Kalinowski.

Paula Terrasi (77 Jewett Street) asked how many sites, some of which are private, will the Town receive funding for if all of these are approved under 40R, and where does funding go. How many are actually Town sites? Mr. Patenaude said all the sites would be applicable. Ms. Terrasi asked if the Town would continue to own the piece of land for the Senior Site. Mr. Patenaude said in regard to town-owned land, there are various ways that this could be done (leasing property or deeding property). This would be determined by the Select Board as to how they would want to "move" that property. Ms. Terrasi said the Town has done two friendly 40B's at Emerson Village and Birch Drive, and we were able to negotiate quite a few things, and working with the ZBA has always been positive. She said she takes exception with how this all came about, and areas in the WRPOD, flood plains, wetlands, rare species habitats, water supply, are all critical areas and there should be a better process in the future when we come up with these proposals, and the different Town departments should be included. Mr. Patenaude said he agreed. We have been lucky with friendly 40B's, but there have been some towns around that haven't been. He said he understands her concerns with specific sites, and his goal with 40R was to give more directive than the State gives. Mr. Ganong spoke on the controls that could be put in the 40R bylaw that would help control/mitigate some of Ms. Terrasi's concerns.

Mx. Campetti asked if we have official comments to go into the record, is there a circulation for formal feedback. Ms. Gingras said that comments have been circulated to the Board. We have received some comments back. She can upload them to the website, and they are available in the Planning Office as well. Mx. Campetti asked if there was a formal circulation of the proposed by law to Boards and Departments. Ms. Gingras said yes, it was sent to Department Heads and Boards/Committees.

Nicole Murphy (207 South Road) asked if the Board feels that the Towns that have previously accepted 40R are reflective of Pepperell in terms of size, scale, character or same sort of vision, i.e., are they comparable towns to Pepperell. Mr. Patenaude asked Ms. Gingras to speak on this. Ms. Gingras said there is a list available on the Planning Board's website of towns that have adopted 40R. We would have to look at similar size and scale to determine that criteria, Lunenburg for example. Mr. Patenaude said Lunenburg is similar and in close proximity. We could look at that. Mr. Patenaude asked Chris Hayes of his knowledge of other towns of similar size and scale. Mr. Hayes said that there are a number of towns in the Berkshires that are in similar size to Pepperell, such as Great Barrington. He discussed different natures of 40R districts. Some towns have done single towns or

whole districts. Ms. Gingras said there is information on the town website. Ms. Murphy asked about the concerns about adopting 40R vs. 40B, such as education, wetlands, and utilities. She asked if by having a 40R are we inviting developers into our town, or is it just another option for developers. Mr. Patenaude said that it would be another option. It doesn't any of the regulations that a developer would have to follow, it actually bolsters are ability to support more stringent regulations. The 40R is an overlay and the zoning district that is the base district would still apply. Discussion ensued.

Ms. Gingras said it has been hard to keep up with comments with so much chat going on.

Caroline Ahdab (19 Deerfield Drive) asked about the presentation NMCOG was speaking on regarding towns of similar size, could Ms. Gingras put the link in the chat. She asked if NMCOG knows how many towns in the surrounding area are not meeting the 10 percent affordable housing. Mr. Hayes said it is a majority of towns. Mr. Hayes said Dunstable, Townsend and Pepperell are the ones that are the furthest away from that goal. Ms. Ahdab asked in Massachusetts, with a town similar in size/population/income to Pepperell, how many towns like Pepperell are meeting that affordable housing standard. Mr. Hayes said that the smaller towns and the towns further from Boston have not met it. The towns closer to Boston have met it. She asked of the 180 units proposed what would actually be affordable. Mr. Patenaude said 45 of those units would meet the affordable (because they're rentals). For the 50 at the Senior Center, it would be 25 percent as well. Mr. Patenaude said 25% of the 50 units would be affordable.

Chuck Walkovich (8 Countryside Road), current Select Board Member, former Planning Board Member, said that what you heard is Pepperell will have a 40B or a 40R and it is up to the community to decide which way to go and the benefits and consequences of both. Same impact applies to all of our concerns, water, etc. A big impact will be to our schools with 40B vs 40R. We have to look at the impacts we get with the 40S payments that we would get with 40R and that would be a huge benefit to the Town. We also have to look at everything we are doing in this Town in relation to the Master Plan. If you look at the 40R and 40B, in relation to the Master Plan, it is providing an opportunity for Pepperell to provide work-force housing. 40R allows for many types of controls, as far as design guidelines. The benefits to the Town of Pepperell are more so with 40R over 40B, and he would strongly encourage the 40R process being put forth.

Mr. Patenaude asked Ms. Gingras what dates we have for a continuation hearing. Ms. Gingras said the next scheduled Planning Board meeting is August 1, 2022. Mr. Patenaude asked the Board Members if they have any potential time next week to make it work. Is there any day that is better than others? Discussion ensued. Mr. Patenaude said that there the Board will hold a continuation of the public hearing on Wednesday, July 27, 2022, at 7:00p.m.

Mr. Patenaude asked for a motion to continue the public hearing to Wednesday, July 27, 2022, at 7:00p.m. So moved by Mr. Ganong, seconded by Ms. Ladik.

Roll Call Vote taken:

Mx. Campetti: Aye
Mr. Ganong: Aye
Ms. Ladik: Aye
Mr. Patenaude: Aye

3. Reports/Correspondence/Discussion:
(Matters may arise that the Chair did not reasonably anticipate)

a. **Staff Updates:** None

4. Future Meetings:

- a. July 27, 2022 (Wednesday) at 7:00p.m.
- b. August 1, 2022
- c. August 15, 2022

5. Adjournment:

Mr. Patenaude asked for a motion to adjourn the meeting. So moved by Mr. Ganong, seconded by Mx.Campetti. All in favor. Meeting adjourned at 10:15 p.m.

Planning Board Meeting Minutes of July 21, 2022, respectfully submitted by Cheryl Lutzca