



# Town of Brookline Massachusetts

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## PLANNING BOARD

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## JOINT BROOKLINE PLANNING BOARD AND ZONING BY-LAW COMMITTEE PUBLIC HEARING ON PROPOSED ZONING AMENDMENT WARRANT ARTICLES FOR SPRING 2023 TOWN MEETING MINUTES

### By Zoom Event

April 12, 2023 – 7:00 p.m.

**Planning Board Present:** Mark Zarrillo, Shelly Chipimo, Andrea Brue, Blair Hines, Linda Hamlin

**ZBL Committee Present:** Chair Bernard Greene, John VanScoyoc, Carla Benka, Linda Hamlin, Ken Goldstein, Linda Pehlke, Cliff Brown, Paul Saner, Roger Blood, Mark Zarrillo, Philip Hresko, Dan Saltzman

**Staff Present:** Kara Brewton, Maria Morelli, Beccah Mapure, Polly Selkoe

Mark Zarrillo opened the joint hearing of the Planning Board and Zoning By-law Committee.

### **ART. 14 – Amend Article 4.08 of the Town’s Zoning By-Law (Inclusionary Zoning) to lower the unit threshold from 19 to 10 for developments that must include on-site affordable housing units (Blood)**

Petitioner Roger Blood gave a presentation in support of Warrant Article 15 to change the unit threshold that would trigger on-site affordable housing contribution from 19 to 10.

Carla Benka asked how much more revenue to the trust fund was anticipated annually.

Roger Blood replied less revenue would come from developers but there could be 1.5 million CPA proceeds, now that the Town has adopted the CPA.

Linda Pehlke said the Land Use Committee and the Advisory Committee voted in favor but raised concerns about constant changes of the range and anticipation of CPA funding. She believed the

proposal would be a deterrent on housing development since developers may try to avoid the paperwork and management reporting requirements of providing on-site affordable units.

Ken Goldstein asked how many projects of ten or more units are built annually.

Roger Blood said that from a total of twenty-two projects only three fell within the range of eleven to nineteen units.

Paul Saner expressed he was supportive of the WA.

**The Zoning By-law Committee voted unanimously to recommend Favorable Action on the motion.**

**The Planning Board voted unanimously to recommend Favorable Action on the motion.**

**ARTICLE 16 – Amend the Zoning Map and Articles 3 and 5 of the Town’s Zoning By-Laws to create a new zoning district (T-5 NH) to set forth building massing requirements in two existing T-5 (two-family) zoning districts north of Beacon Street to encourage reuse and deter demolition** (Department of Planning and Community Development)

Polly Selkoe gave a presentation to support Warrant Article 16 to create a new zoning district designated T-5 NH to encourage reuse and deter demolition on the existing two-family districts located north of Harvard Street. Selkoe noted that the WA was the first response to Article 12 passed during Fall TM, which asked the Planning Department to look into ways to deter demolition.

**ZBLC and PB Comments**

Andrea Brue asked why the measure was temporary. Polly said it was until a deeper analysis could be performed on styles of buildings with different roof types.

Blair Hines was supportive of the zoning changes and said it would help address some design concerns for the special permit process. However, many lots would not be able to maximize FAR if extending over 50% of lot depth is not allowed, taking away development potential.

Andrea Brue had hesitations on the roof type’s limitations because there could be well-designed flat roofs. She suggested saying primary roof types.

Mark Zarrillo agreed and suggested that the main roof type be gable or hip and allow additions or dormers to be flat by design review.

Blair Hines wondered if the zoning would only apply to new construction. [Response: it would also apply to additions.]

Polly Selkoe said that Planning Staff agreed the proposal was overly restrictive and agreed to change the language for dormers to recommend best practices instead of having hard and fast requirements.

Phil Hresko asked what was the height of a half-story. Polly replied that the height of a half-story was not described in the zoning and would be determined by the building height limit.

Phil Hresko said the proposal attempted to legislate design and eliminate buildings with wonderful flat roofs. He would not support the WA since he liked variety in a neighborhood. Flat roofs allow the accommodation of solar panels and outdoor space.

Linda Hamlin said the definitions were problematic and dormer limitations were unacceptable. A colonial house could have a nice flat roof extension.

Paul Saner wondered if there were an estimated outcome for a typical-sized site based on the proposed dimensional restrictions and how the presently allowed FAR would effectively be reduced.

Maria Morelli explained that a sampling of 25% of the properties showed that the current FAR is mainly between 0.5 and 0.7. FAR. However, other metrics could be supported as long as it would result in a design in scale with the neighborhood.

Saner asked what kind of unit sizes would result from reducing the 3<sup>rd</sup> floor to 40% of the second floor if the T districts were to accommodate three units, and what the new zoning would mean in terms of pre-existing nonconformities.

Maria Morelli said that the possibility of a third unit if the building were not demolished would be the next exploration of the Planning Staff. In terms of nonconformity, the majority of the properties are at fifty or under fifty percent of lot depth.

Linda Pehlke noted that the Land Use Subcommittee did not take a vote and expects to see some changes to WA 16. She agreed with allowing flat roofs in projecting spaces beyond the primary roof. Pehlke suggested substituting the definition of a half-story based on how high on the third floor the roof line has to meet the wall.

### **Public Comments**

Lewis Berk, 47 Stetson Street, said many homes on his street were built with high third floors and different shapes of dormers providing substantial living space. His family was already working on a project to extend their living space, similarly to what their neighbors have done under the current zoning. However, the proposed zoning would deprive them of the ability to improve their space for their growing family. Berk suggested a differentiation between existing homes and new construction, mainly regarding maximum height.

Polly Selkoe said that there is a state requirement to treat all properties, existing or proposed, the same.

John Bowman, TMM Pct. 10 and resident of Beals Street, said the requirements for roofs and dormers were too restrictive and unnecessarily forced uniformity. Also, the 40% area 3<sup>rd</sup> story limitation would not allow the space to rent rooms within the unit. 70 to 75% would be a more reasonable requirement and support affordability.

Rebecca Arnoldi, 89 Naples Road, was happy with the WA and asked if other developers apart from 85 Naples Road submitted an ANR to freeze the current zoning and be exempt from the proposed WA if it were to pass. Polly Selkoe responded that no one else submitted a perimeter plan.

Kara Brewton said she thought an ANR plan would protect use but not dimensional requirements. Nevertheless, she would confirm with Town Counsel and provide feedback in writing.

James Carr said that the proposed zoning changes were a bad idea and would not guarantee good design. Mandating the shape of the roof would not solve teardowns and replacements with mediocre buildings.

Nancy Heller, TMM Pct. 8, spoke in favor of the WA as she liked the existing architecture in the neighborhood. Limiting depth was crucial to control massing and preserve open spaces and regulating roof type was important to protect the streetscape.

Alisa Plazonja, 152 Naples Road, voiced her support for the WA. Demolitions entail clear-cutting, destroying, and endangering trees on the lot as well as on adjacent properties. The depth restriction would help maintain open spaces and mature trees and support climate resilience.

David Pollak did not agree with legislating architecture style as the town moves towards form-based zoning. Limiting height in a modest older residential district did not make sense since many houses may currently have lower ceilings. Need to be careful with how much homeowners would be restricted from making additions by down zoning the dimensional requirements.

Fran Perler, resident at Fuller Street, was supportive of the WA. She was against squeezing more people into the already tight neighborhood. Neighbors like the charm of the historic nature of Victorian homes instead of replacements with big dormers or townhouses. Stopping demolitions would help reduce the carbon footprint. She agreed the amendment should not deny the ability of homeowners to make small additions.

**ZBLC and PB Comments continued**

Andrea Brue said that if the goal was to deter demolition, the 50% rule would address the massing but the roof and dormers rules were architectural and design issues that could be studied in the future. If flat roofs may be allowed in the future, it could be unfair to people who might follow the rule now.

Phil Hresko said hip and gable roofs are not energy efficient because they are built under a structure for three floors but have limited use of space. Modern buildings are a design counterpoint and an energy-saving potential.

Ken Goldstein echoed Hresko's comments and added that architecture styles changed over time based on lifestyle changes, and buildings had a limited life span. To deter demolition, the focus should be placed on the demolition by-law and not on zoning which is difficult to change once approved.

Roger Blood asked why not start with a proposal to create an historical district instead of a zoning change.

Polly replied that neighbors felt that an LHD would be overly restrictive.

Carla Benka said one option for the next steps was to table the proposal and ask Planning Staff to return with modifications based on the discussion, mainly regarding design restrictions. An alternative was to vote with a sunset provision.

Blair Hines said the most important part of the WA was the 50% lot depth restriction and suggested that other requirements could be posed as standards for design review by the Planning Board.

Maria Morelli said the definition of demolition extended to partial demolition, and dormer specifications were proposed as a way to communicate how to avoid partial demolition consistent with Article 5.3. The proposal was not intended to discourage creativity but to help predict outcomes based on objective design standards and dimensional requirements. The WA captures the existing parameters.

Mark Zarrillo asked why the T-5 areas around Aspinwall Avenue were not extended across from Griggs Road.

Polly Selkoe explained that the intention was to start small to see how the new zoning would work.

Mark Zarrillo said the sunset clause could allow testing the provision.

Dan Saltzman agreed with the sunset clause to allow reconciliation between the architects' and neighbors' concerns.

Bernard Greene agreed with voting for a sunset provision.

Linda Pehlke said the WA will be going back to the Advisory Committee Subcommittee on Land Use Planning and it is probable that amendments will be proposed. She suggested that Planning Staff work with their subcommittee first to amend the WA before the PB takes a vote. However, the AC would consider a sunset clause if the PB and ZBLC voted that night.

Roger Blood said the ZBLC had a specific zoning mandate while other committees were more general. Hence, he suggested starting with the joint ZBLC and PB vote.

**Roger Blood, ZBLC member, moved to recommend Favorable Action on Article 16, subject to a sunset clause that would expire 12 months after the Attorney General's approval. Bernard Greene seconded the motion.**

**The Zoning By-law Committee voted 7-4-1 to recommend Favorable Action of WA16.**

**The Planning Board voted 2-2-1 on a recommendation of Favorable Action of WA 16. The motion did not pass.**

**ARTICLE 15 – Amend Article 5.9 of the Town’s General By-Laws to clarify and update votes previously taken regarding the Stretch Code and Specialized Energy Code, and add fossil fuel-free restrictions in accordance with the MA DOER Demonstration Project.** (Department of Planning and Community Development)

Thomas Barrasso gave a presentation to support Warrant Article 15.

Mark Zarrillo asked about portable propane use and outdoor kitchens.

Thomas Barrasso said while people would be expected to move away from portable propane, it would not be a requirement. However, major external propane tanks would be looked at on a case-by-case basis.

**Mark Zarrillo moved to recommend Favorable Action on Article 15. Blair Hines seconded the motion. The motion was approved unanimously.**

**ARTICLE 24 – Resolution seeking to offer options to Town Meeting to comply with the MBTA Communities Act, and requests, among other things, a Moderator’s Committee to identify additional potential options to comply with the MBTA Communities Act** (Neil Gordon; Richard Benka; John Doggett; Jane Gilman; Nancy Heller; Jonathan Margolis; Linda Olson Pehlke; Marty Rosenthal)

Polly Selkoe introduced the article and noted that the Select Board voted to appoint a committee to identify alternative options that would comply with the MBTACA.

Dick Benka, TMM Pct. 14, gave a presentation to support Warrant Article 24.

Linda Hamlin said she was confused with the amount of points presented and thought there were too many development ideas underway and the proposed article should be tabled or voted to recommend no action.

Blair Hines suggested not supporting WA 24 and focusing on the Harvard Street Study which was a good beginning. There would be opportunities for the Town to adjust any recommendations.

Andrea Brue asked if the Town did not already meet the MBTA Act if the Beacon Street Corridor was used as an option. She was not supportive of the idea of creating more zoning and therefore would support WA 24.

Shelly Chipimo expressed she was not ready to vote in favor of WA 24.

Mark Zarrillo believed they should wait for the Select Board Committee. He stated that many people did not like one particular situation vs another. Based on his experience as a planner and the definition of density per acre fitting fifteen dwelling units per acre to comply with the MBTA Act would be equivalent to triple decker. Zarrillo suggested a motion on no action since the planning staff had substantially looked into alternatives.

**Mark Zarrillo moved to recommend No Action on Article 15. Blair Hines seconded the motion.**

**The Planning Board voted 4-0-1 in favor of the motion.**

**The hearing was adjourned [SEE BELOW FOR VOTES.]**

Motion	Favorable Action	Fav Action w/sunset	Fav Action	Fav Action
<b>Zoning By-Law Committee</b>	<b>Article 14</b>	<b>Article_16</b>	<b>Article_15</b>	<b>Article 24</b>
Bernard Greene	y	y		
John VanScoyoc		y		
Carla Benka	y	y		
Roger Blood	y	y		
Cliff Brown	y	a		
Jesse Geller				
Ken Goldstein	y	n		
Linda Hamlin	y	n		
Phil Hresko	y	n		
Pallavi Mande				
Linda Pehlke	y	y		
Dan Saltzman	y	y		
Paul Saner	y	n		
Johanna Schneider				
Mark Zarrillo	y	y		
<b>Total Yes</b>	<b>11</b>	<b>7</b>	<b>0</b>	<b>0</b>
<b>Total No</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>
<b>Total Abstentions</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
Motion	Favorable Action	Fav Action w/sunset	Fav Action	No Action
<b>Planning Board members</b>				
Mark Zarrillo	y	y	y	y
Andrea Brue	y	n	y	a
Blair Hines	y	y	y	y
Linda Hamlin	y	n	y	y
Shelly Chipimo	y	a	y	y
Steve Heikin				
<b>Total Yes</b>	<b>5</b>	<b>2</b>	<b>5</b>	<b>4</b>
<b>Total No</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>Total Abstentions</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>

Not present