Meeting Minutes
September 16, 2019

EDAB Members Present: Paul Saner (Co-Chair), Anne Meyers (Co-Chair), Ken Lewis, Carol Levin, Tom Nally, Marilyn Newman, Al Raine, Donald Warner, Alan Christ, Cliff Brown,

EDAB Members Not Present: Derick Choi, Susan Houston

Staff: Kara Brewton, Karen Martin, Meredith Mooney, and Zoe Lynn

Members of the Public: Jeff Wachter, George Warner, Lisa Cunningham, Audrey Schulman, David Klaffer, Inge Damm-Luhr, Dave Damm-Luhr, Alan Levitan, Diane Sokal, Jason Jewhurst, Marilyn Ray Smith, Daria Mark, John VanScoyoc, Cecilia Nardi, Jennifer Gilbert, Werner Lohe, Jesse Gray

Materials Presented: PowerPoint presentation by Jesse Grey, text of Warrant Articles 20 and 21

With a quorum present, Paul Saner called the meeting to order.

Discussion and Public Hearing on Warrant Article 21: Adoption of a new General By-Law prohibiting new fossil fuel infrastructure in major construction (Gray TMM10, et al)

Paul Saner asked any property or business owners to identify themselves. Jennifer Gilbert identified herself as representing a large group of property owners and developers.

For attendees who were unfamiliar with EDAB and its mission, Paul Saner provided an overview of EDAB’s mission and underscored that EDAB cares very much about climate change and has supported various sustainability initiatives in the past.

After giving an overview of the public hearing format, Paul Saner opened the public hearing on Warrant Article 21: Adoption of a new General By-Law prohibiting new fossil fuel infrastructure in major construction (Gray TMM10, et al) and invited Jesse Gray, the warrant article petitioner to begin his presentation.

Jesse Gray began by thanking EDAB members for the 105 questions that they submitted to him ahead of his presentation.

Mr. Gray outlined what would and would not trigger the proposed by-law. EDAB members expressed concern over the lack of a clear definition of what qualifies as a “substantial or gut
rehab”. Mr. Gray responded that he was open to suggestions about how to make that language clearer.

EDAB members pointed out that the current warrant article does not include any language about exemptions. When asked to describe the exemption process, Mr. Gray replied that there is currently no proposed process for exemptions.

EDAB members expressed concern about the potential for unintended impacts on individual condo owners, as well as restaurants, which typically make substantial changes to their spaces, and tenants of older, 1-story commercial buildings. Regarding condos, Mr. Gray agreed that this was a good example to focus on, because the potential impacts in that scenario still aren’t clear to him, and added that in such a scenario, the proposed warrant article would intend to target condo building property owners who undertake large-scale renovations, but not individual condo owners. Regarding restaurants, Mr. Gray did not see a reason why restaurants wouldn’t be able to function on an all-electric format. Some EDAB members disagreed with this statement and expressed concern about Brookline’s ability to attract new restaurant concepts and formats under the proposed by-law.

Mr. Gray estimated that 15% of buildings in Brookline would turn over and trigger the proposed by-law by 2050. Converting those 15% of buildings to fossil-free fuel could result in a 10% reduction in Brookline’s fossil fuel usage.

Mr. Gray acknowledged EDAB’s concerns about the proposed warrant article stifling development in Town, and welcomed EDAB’s help in his outreach efforts to local developers.

Mr. Gray argued that electric buildings are practical and cost-effective and provided several examples. All electric is particularly practical for small, residential buildings.

EDAB members inquired about the premium for all-electric projects, referencing the 6% of project costs premium for an all-electric building design for either the Driscoll or Baldwin School projects – is that example indicative of the premiums developers will face under this proposal?

Mr. Gray responded that they’re in the process of delving deeper into those numbers, and added that for single family homes, it’s cheaper to build all-electric.

Werner Lohe added that because of the value-based decision to construct an all-electric school, there was no non-electric Driscoll or Baldwin School design alternative with which to compare project costs.

Al Raine commented that he hoped that the difference between first costs and life cycle costs would be addressed at some point in their discussion.

Don Warner raised the issue of statutory authority, referencing a LEED Silver Certification requirement that Brookline had tried to implement in the past, which was struck down by the Attorney General’s office because of its inconsistency with state building code. Mr. Gray responded that he had spoken to many lawyers, including the director of the state Attorney
General’s Municipal Unit office. The bottom line is, because this proposal is so unusual, there’s no way to determine if it will pass legal muster.

Cliff Brown expressed concern about the economics of this proposal, adding that a cost-benefit analysis was needed to determine potential impacts to developer and homeowner behavior and any ensuing impacts to the Town’s revenue.

Jesse Gray responded that although we’re not able to predict with certainty how people and businesses will be impacted by this, we can assess the practicality of this proposal.

Public Comment:

- Ellen Watts. Architect for 40 years. President and co-founder of a local architecture firm. Wellesley resident. Background in government, real estate finance and architecture. Based on her own direct professional experience designing commercial, institutional, and civic buildings, all-electric buildings are incredibly cost-effective and energy efficient. Precedents for this exist all across the country. All-electric buildings, which are designed to be more resilient and cost-effective, are the way of the future. If we don’t move quickly towards all-electric vehicles and buildings, it will be impossible for us to reach the climate change targets we need to achieve.

- Audrey Schulman, Executive Director for HEET, a Cambridge-based non-profit that specializes in gas research and energy efficiency. Gas is a very old technology – dates back to the 1860s. We don’t fight to keep technologies for the 1860s. The gas infrastructure in Boston is the second oldest in the country. Gas pipelines are leaking. The cost of replacing those pipes is substantial. Those who can pay will switch to electric – lower socioeconomic groups will be left to pay for the gas infrastructure. This will result in stranded assets. Almost half of Brookline’s gas pipes are leaking and will take 20 years to replace. Restaurants in general prefer induction cooking.

- George Werner, local architect. Solar actually provides a return as an energy source.

- Jennifer Gilbert, representing several developers and large property owners, including Boston University, the Coolidge Corner Theatre, Claremont hotels, Chestnut Hill Realty, the Dinesh Group, BHA, as well as many restaurants in Brookline and the Greater Boston area.
  
  - This proposal will not work for restaurants. Restaurants prefer gas cooking. Under this proposal, restaurants are likely to locate to Boston or elsewhere without all electric.
  - Chestnut Hill Realty is concerned about costs of utilities on tenants. Those costs will be transferred on to tenants and drive up occupancy costs.
WS Development is currently in discussions with the Town about developing the Chestnut Hill office park. They have not crunched the numbers yet, but they do have a lot of concerns about the impacts of this proposal.

- Claremont Hotel would not be able to open under this proposal
- Ms. Gilbert was glad to see that Waldo-Durgin was exempt.
  - Other exemptions are not currently included in the WA language, including for the Coolidge Corner Theatre, which would likely be impacted by this proposal despite the petitioner’s intention to create a carve out for their theatre’s project.

- Lisa Cunningham. Local architect. Runs a business with her husband. The work primarily on residential projects. Many clients want to make the sustainable and responsible choice of all-electric to ensure a livable future for future generations. For residential projects, sustainable design have much lower operational costs and features like solar panels, can provide significant return on investment.

- Neil Wishinsky, member of Advisory’s Planning and Regulatory Subcommittee. Conceptually, wants this idea to work, but has concerns about the absolutism of it. There’s no striation of specific construction types. Exemptions need to be included to make it practical. Concerned about unintended consequences of the vague “gut renovation” definition.

Paul Saner asked Mr. Gray to talk about his criteria list for exemptions. Mr. Gray responded projects that are not practical or not cost-effective to be all-electric will be exempt. Hot-water heating for large projects is a clear example of an appropriate exemption.

EDAB members agreed that additional information was needed before they could vote on this warrant article. EDAB would like to hear directly from the business community, have a better understanding of the potential impacts, especially the potential tax growth impacts, and have a more concrete definition of a “gut rehab”.

Paul Saner asked Mr. Gray to return for further discussion at EDAB’s next meeting on October 7, 2019.

Discussion and Public Health on Warrant Article 20: Amend the Town’s Zoning By-law to allow Micro Unit Dwellings in the Coolidge Corner General Business District (Zuker)

Attorney Jennifer Dopazo Gilbert and Petitioner Bob Zuker gave an overview of the article which proposes to allow microunits in the G-1.75 zoning district.

Ms. Gilbert explained that when the Emerald Island Special District (EISD) was created a few years ago, it explicitly added a definition for microunits and allowed them only in the EISD district. This
had the unintended consequence of prohibiting them in all other zoning districts even though previously they would have been considered allowed anywhere in Brookline.

Mr. Zuker discussed how he currently has a lease on the 1341 Beacon Street property (former Santander Bank) where he is interested in adding microunits onto the rear parking lot facing Webster Street. One issue he wanted to address related to the Public Benefit Incentives (PBI) offered for this zoning district which allow for increased FAR and height allowances to properties that meet certain requirements. To qualify for a PBI, the lot must currently have over 20,000 square feet. Mr. Zuker explained that his lot has only 9,000 square feet and that many of the lots that could be redeveloped in this zoning district are well under 20,000 square feet. He believes that in order to incentivize development, lowering the requirement to capture more lots will encourage development.

Ms. Gilbert explained that this proposal is not an upzoning but rather an effort to bring a use that was previously allowed back to this zoning district. She stated that it is not increasing the allowable FAR.

Mr. Zuker stated that he is currently considering 35 microunits on the site. He is in favor of microunits because they allow for a smaller ecological footprint. Microunits are targeted at people living by themselves and allow for more affordability. He is interested in a green building that is all electric. Microunits create a diversity of housing stock, he explained. Without flexibility in zoning, he further explained, only large two-bedroom units will continue to be built because that is what currently works with zoning and parking requirements.

Ken noted that the Ames Hotel was recently acquired by Suffolk University. He envisions Boston College or Boston University acquiring a building of microunits for their own purposes which would then remove the building from the tax rolls. Ken stated that he would like to see a tax certainty agreement for this type of project.

Ms. Gilbert responded that Mr. Zuker has a ground lease but does not own the property. Additionally, she explained, this is not an upzoning unlike other recent projects where the Town did receive a tax certainty agreement. She also noted that the owner would have to transfer a piece of the property to the Town for such an arrangement but that Mr. Zuker is not the owner for this property.

Ken pointed out that even though it is not an upzoning, it is still a more favorable zoning. He stated that microunits were a very positive component of the EISD.

Cliff asked if there is any other way to achieve the same goal as a tax certainty agreement.

Al asked how long Mr. Zuker’s lease is. He replied that it is for 100 years.

Paul stated that he applauds Mr. Zuker for stepping forth with this proposal. Paul stated that microunits created “pop” in commercial areas and noted that the Zoning By-Law Committee was generally supportive at its meeting last week. Paul stated that the tax certainty conversation is
very important and he encouraged Jennifer to keep thinking. He stated that he is generally supportive but he wants to hear back about the tax certainty.

Paul asked if there was any public comment.

Jeff Wacheter asked why this proposal is being limited to Coolidge Corner only if microunits could be beneficial all across Town. Mr. Zuker replied that he proposed to start with this limited area because Coolidge Corner is well-served by public transit and dense commercial. He feels the G-1.75 district does encompass a lot but if things work well in this one district, the use can always be expanded elsewhere in the future.

Carol asked if there is an alleyway connecting the proposed microunit building to Beacon Street. Mr. Zuker replied that there is the existing alley next to Eureka.

Don stated that he thinks microunits are wonderful and his only concern is the tax certainty. Al seconded this thought. Tom also agreed and noted that microunits are something we need to see regionally.

Paul asked if the Board was inclined to vote on this. He stated that he is in support with the one qualification that EDAB would like to hear about a legal opportunity for tax certainty.

Cliff replied that he would want to defer a vote until EDAB finds more info.

The Board agreed to close the public hearing and defer a vote until the October 7th meeting.

**Further discussion:**

The Board resumed its discussion on Article 21.

Some members asked if the public hearing portion for Article 21 had been closed. The Board had not closed the public hearing and ultimately decided to leave it open so that further comment from various stakeholders that the Board would like to hear from could still be heard at the next hearing.

Ken asked if adding exemptions to the article would be allowed at this point. The Board explained that any exemptions would be narrowing the scope of the article, which is allowed.

Carol stated that she would rather see an article that comprehensively addresses the issues than an article that has a long list of exemptions.

Cliff stated that there needs to be more discussion on the groups/types of people that might be impacted most by the article.

Ken stated that this will be model legislation for other municipalities so it needs to be good.
Carol added that the petitioner’s conclusion that all-electric is “affordable” is not enough – we need to see real numbers presented.

The Board discussed the implications on restaurants and other small businesses. Paul stated that the passage of this article would not enhance Brookline’s reputation of being “business friendly”.

The Board discussed conversations that have been had with NAIOP about impacts on commercial development.

Carol stated that a more comprehensive approach to the article and green design would be better but that a more comprehensive approach might not pass the Attorney General, as discussed earlier with the LEED Silver proposal.

Cliff questioned why, if the article is so cost effective, would the Town need to force people to switch fuel sources?

Don stated that this concept is the way of the future but the petitioner does not seem to have hit on a lot on EDAB’s points and questioned how the petitioner will have this ready by Town Meeting.

Kara stated that the petitioner will look for a positive vote from Town Meeting regardless of how EDAB votes and she encouraged EDAB to focus on asking questions and getting more clarification on the points that are most important to EDAB.

Ken suggested an exemption for restaurants under 5,000 square feet.

Carol suggested an exemption of gas used for cooking and for emergency generators.

Cliff would like to see an economic analysis broken down by different types of construction.

The Board also discussed deferring the implementation of the article to a later date for commercial uses only.

Ken stated that he is much more concerned about renovations than new construction.

The Board agreed that Carol would compile any submitted recommendations for exemptions to this article prior to EDAB reconvening this discussion on October 7th.

Meeting adjourned.