



Town of Brookline

Massachusetts

PLANNING BOARD

Steve Heikin, Chair
Robert Cook, Clerk
James Carr
Linda K. Hamlin
Blair Hines
Matthew Oudens
Mark J. Zarrillo

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BROOKLINE PLANNING BOARD MINUTES Room 111, Brookline Town Hall October 17, 2019 – 7:30 p.m.

Board Present: Steve Heikin, Linda Hamlin, Mark Zarrillo, Blair Hines
Staff Present: Polly Selkoe, Kara Brewton, Zoe Lynn

Steve Heikin called the meeting to order at 7:30 pm. He asked if there were any members of the public in attendance who wished to make comments on matters not on the agenda. There were none.

BOARD OF APPEALS CASES

99 South Street – Expand driveway into left side setback

Polly Selkoe presented the case and described the requested relief. The applicants explained that the second car overhangs the sidewalk.

Blair Hines – asked if the driveway couldn't be widened on the right side, away from the abutter and to avoid needing relief from the side yard setback. They could expand both sides a little and the curb cut should not be 20' wide. It could be 14' wide.

Mary Hurwitz, 105 South Street, direct abutter, is opposed to have the space so close to her property.

Mark Zarrillo suggested a different type wall.

Planning Board was supportive with conditions that the new wall be 4' from left property line, the wall should be made of stone, and the curb cut should remain the same.

The abutter stated she would be happy with that.

The Planning Board voted to recommend approval of the site plan by C&G Survey Company dated May 21, 2019 subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit a final site plan showing the retaining wall no less than four feet from the left side property line and the curb cut no greater than 14 feet, stamped and signed by a registered engineer or land surveyor, to the Assistant Director of Regulatory Planning for review and approval.**

2. Prior to the issuance of a building permit, the applicant shall electronically submit a final landscaping plan, including that the new retaining wall on the right side of the driveway be made of real stone, to serve as counterbalancing amenities, to the Assistant Director of Regulatory Planning for review and approval.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Department 1) the site plan and landscaping plan displaying the approval stamp of the Assistant Director of Regulatory Planning; and 2) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

GENERAL WARRANT ARTICLES – DISCUSSION & POSSIBLE VOTE ON RECOMMENDATIONS ON:

Art.. 19 ACCESSORY DWELLING UNITS (ADU'S) – Continued from Last Week for Opinion from Town Counsel

Polly Selkoe explained Town Counsel's opinion about using Deadrick for an ADU. The way the article is written a person could, under Deadrick, enlarge a pre-existing, non-conforming dwelling and then five years later request an ADU.

In Sec. 3.2 .3 Building Envelope, Mark Zarrillo urged adding the phrase "or conversion of a garage" after "An expansion of the building envelope ..." to make it clear that the total FAR can be no greater than 120% when the floor area of the garage is added to the total FAR.

There was also discussion by the Board and by citizens Linda Pehlke and Leah Cohen supporting a 950 sq. ft. ADU by special permit.

Therefore, the Planning Board recommends FAVORABLE ACTION on the revised version of Article 19 (dated October 4, 2019), with recommendations on the following provisions of the article:

1. **Section 4.05.3.2.3, "Building Envelope"**: The Planning Board felt very strongly that the language "or conversion of the garage" should be added after "An expansion of the building envelope" to ensure that both space in the primary building and a garage are treated in the same way as it relates to the limits on floor area ratio present in the article.
2. **Section 4.05.3.2.1, "Maximum Square Footage"**: The Planning Board suggested that requiring documentation of the need of a resident caregiver to obtain a special permit for an ADU was unnecessary because while considering a special permit the Planning Board and Zoning Board of Appeals must find that the conditions for a special permit are met. These include, among other factors, a judgment as to whether the specific site is an appropriate location for such a use or structure, that the use will not adversely affect the neighborhood, and that adequate and appropriate facilities will be provided for the proper operation of the proposed use. Stating that an additional off-street parking space may be required is also unnecessary since this is already permitted under a special permit, if deemed necessary.
3. **Section 4.05.3.2.5, "Exterior Alterations"**: The Planning Board suggested that "keeping with the architectural integrity of the structure" did not need further explanation, because materials, roof pitch, trim and windows is typically included in an analysis of design.

Art. 20 Micro-Units – Continued from Last Week as Requested by Petitioner

Jennifer Gilbert on behalf of petitioner explained that this article would allow micro units in the G-1.75 CC district. In 2016, Micro units were expressly allowed in the new Emerald Island District which resulted in making them prohibited in other zoning districts. M. Gilbert explained the revisions the petitioner made in response to the Planning Department report which supported micro units in concept but did not support many of the included waivers.

The petitioner suggested one additional revision in the last sentence of the revised by-law: to add that no parking is required if at least 75% or more of the units in a building are micro units.

Steven Heikin was perturbed initially that this was proposed for a particular property and that it excluded several requirements that non micro unit buildings would have to meet to receive extra FAR and height under the Public Benefits Incentives section. But now with these revisions, he supports it.

Blair Hines stated that he is in favor of not requiring parking for buildings in the TPOD district. However, he felt that micro-units should be allowed in other areas of Town.

TMM Jonathan Davis stated that he doesn't agree with the interpretation that micro units are not allowed in districts outside the Emerald Island District. He gave an example that in 2018, no one objected to the small units being proposed at 71 Winchester Street, which included units that were under 500 sq. ft. He went on to say that Micro units should be allowed everywhere but that this area (CC) is already too dense.

Linda Pehlke stated that with the revisions she is supportive because young professionals will want to live in Coolidge Corner.

Mark Zarrillo suggested that the Planning Board recommend no action because more analysis is needed and that it might be appropriate to expand the warrant article other areas.

James Carr agreed with Mark that allowing micro units in Coolidge Corner would change the character of the area, especially if micro units are built over the many one story retail businesses in this area.

VOTED: to recommend Favorable Action (3-2) on the revised Article 20.
(Mark Zarrillo & James Carr voted opposed).

Art. 9 Real Estate Transfer Tax

Blair Hines explained that he is on the land bank committee that has been exploring the issue of a Real Estate Transfer Tax. Brookline is tapped out with overrides and this would be a different mechanism for raising money.

It was explained that Article 9 was submitted by citizen petitioners Wendy MacMillan, David Lescohier, and Deborah Brown and is a resolution to authorize the Select Board to file a petition with the State Legislature that would allow the Town to levy a real estate transfer tax (RETT). The tax would be collected at the time of sale of a property by having the seller and buyer both pay 1% of the purchase price after a deduction of \$500,000. If this is passed by Town meeting and if the State Legislature approved it, there would be a town wide vote before it became a regulation. The fees collected from the RETT would be used to fund the

Brookline Affordable Housing Trust Fund, which is overseen by the Housing Advisory Board.

The Planning Board discussed the article. Blair Hines, a member of the Land Bank Committee, felt it should be referred back to the Land Bank Committee.

VOTED: To close the hearing but continue the Planning Board discussion and possible vote to the Planning Board meeting on November 7th.

Art. 21 Fossil Fuel Prohibition

Steven Heikin explained that the Planning Board had a preliminary presentation on this article at an earlier Planning Board meeting.

Jesse Gray, one of the petitioners, gave a presentation. His power point presentation showed that it would not be more expensive than using fossil fuels. He explained there has been a discussion of allowing waivers in some cases and the process to allow this is still being formulated.

Linda Hamlin is concerned about the legality of the article. All of the other communities do not include renovations in the prohibition on using fossil fuels. There should be further analysis including noise impacts and aesthetics. She also thought single family renovations should be excluded. Would we be the only community to require this for single family renovations.

Jesse Gray answered yes, but not for long.

James Carr stated that insignificant costs are not insignificant to everyone.

Steve Heikin likes the idea of Brookline being a leader in the sustainability field. The details of the technical committee who would either grant or recommend waivers to the Select Board still needs to be worked out.

Mark Zarrillo expressed that this is a very dramatic move and people should be given time to get used to it. He also felt that having a single source is a problem and that free trade is being restrained.

Jesse Gray – EDAB is recommending implementation after 12 months from the Attorney General's determination.

Blair Hines applauds the effort and goals but stated that it is important to set-thresholds to catch only the big projects.

Zoe Lynn asked the Board to weigh in on the waiver process and what threshold should be used for major renovations: 50% threshold of floor area or 50% of cost of renovations.

Steven Heikin doesn't feel he has technical knowledge to weigh in on waivers.

Linda Hamlin agreed. It should be professionals on a waiver committee.

Steven Heikin asked if Dan Bennett is comfortable with using the 50% of floor area for a proposed trigger.

Dan Bennett said yes because it's easier to calculate.

Kara Brewton thought that specific waivers allowed need to be stated in the by-law.

Leah Cohen, realtor, said this should be done state wide, not just in Brookline.

Emily Kolstadt, High School student supported the warrant article.

Steve Dougworth felt Brookline should not be leading the field but should wait to see how this works out in other communities.

Scott Ananian expressed his support.

Lisa Cunningham, architect & TMM, stated that gut renovations are usually done by new owners and usually piping is not changed, although many people install heat pumps etc.

Linda Pelkhe was also surprised that other communities have not considered similar bylaws and she felt being the guinea pig can be a problem.

Jennifer Dopazo Gilbert, representing WS Development, would like lab use exempted. She suggested there should be an appeal process if an applicant didn't agree with the Building Commissioner's decision that the By-Law was triggered.

Paul Saner agrees that lab use should be exempted.

Steven Heikin would like to see a revised version addressing waivers and the process used to grant them before a vote.

Linda Hamlin believed that many residents are probably not aware of this proposed by-law and the town's people should know about this.

VOTED: To close the hearing but continue the Planning Board discussion and possible vote to the Planning Board meeting on November 7th.

Materials Reviewed During Meeting: Staff Reports, Zoning Texts, Site Plans, Elevations

The meeting was adjourned.