



Joint Meeting of the Planning Board and City Council Committee on Legislative Matters and the Northampton City Council

Members

Councilor William H. Dwight, Chair

Councilor Gina-Louise Sciarra, Vice Chair

Councilor Rachel Maiore

Councilor John Thorpe

MEETING MINUTES

Date: January 14, 2021, Time: 7:00 pm
Virtual Meeting

1. **Meeting Called to Order and Roll Call:** At 7:05 p.m., Planning Board Chair George Kohout called the joint meeting to order. On a roll call, the following Legislative Matters Committee members were present: William H. Dwight, chair; Rachel Maiore, Gina-Louise Sciarra, vice chair; and John Thorpe.

Present from the Planning Board: George Kohout, Chair; Marissa Elkins, Melissa Fowler, Christa Grenat, Samuel Taylor, Chris Tait, Alan Verson, Janna White and David Whitehill.

Also present were Councilor Alex Jarrett, Councilor Jim Nash, Office of Planning and Sustainability (OPS) Director Wayne Feiden, OPS Assistant Director Carolyn Misch and Administrative Assistant Laura Krutzler.

Chair Kohout explained the procedure he would use in conducting the public hearing. Ms. Misch will give a presentation on the zoning amendments, then he will open the discussion to the Planning Board and Legislative Matters Committee and then to comments from the public. When the public has finished commenting, he will turn discussion back to the Planning Board and Legislative Matters. If at that point these bodies feel they have enough information, they may entertain a motion to close the public hearing. Once the public hearing is closed, the two committees will deliberate. What usually comes out of this process is that the Planning Board makes a recommendation to move the amendment forward to the City Council. The Planning Board does not approve or codify the ordinance, he clarified.

Councilor Dwight announced that the meeting is being audio/video recorded. If it seems appropriate and the committee is agreed, Legislative Matters may also take the opportunity at the end of the meeting to vote on its recommendation, he said.

2. **Public Hearing on Proposed Zoning Changes**
Package of Zoning Amendments to Allow Two-Families by Right in All Residential Zoning Districts, referred to Planning Board (PB) and Legislative Matters (LM) - 12/17/2020

Chair Kohout recognized Ms. Misch.

Ms. Misch gave a Powerpoint presentation on the proposal to allow two-families by right in all residential zoning districts. The purpose of the hearing is to receive public comment, she confirmed. She stated her intention to give a history of planning and zoning actions that led to the proposal tonight.

Before 2000, on the zoning side, Northampton had two-families by right in Urban Residential B (URB) and Urban Residential C (URC) zoning districts going back for decades, she presented. That's where 60% of the population lives so that's been by right for a very long time

Just before 2000, the City Council adopted an amendment to allow accessory dwellings throughout the city outside of URB and URC districts by special permit. Initially, they were a maximum of 800 square feet. Sometime after, detached accessory dwellings were allowed by special permit. Subsequent to that, accessory dwelling units (ADU's) shifted to being 'by right' in all areas with the exception of detached ADU's and the cap on unit size was raised from 800 to 900 square feet.

In 2010, the city went through a planning process to adopt the Sustainable Northampton Plan. The plan represented a policy shift for where the community wanted to go in terms of equity, housing development, economic development, open space, etc. On the heels of that, zoning amendments were passed to reflect these goals and planners have continued to introduce amendments consistent with the plan since 2010-11. The city has also done studies since that time, including "Unlocking Opportunity: An Assessment of Barriers to Fair Housing" and made tweaks and adjustments to zoning to try to address new information that's come out of these studies. The city is now moving forward with the Climate Resilience and Regeneration Plan which talks a lot about land use and transportation, climate and equity issues and continues to make zoning adjustments.

For further context, this package of two-family by right amendments is part of a quartet of zoning changes. City officials have heard that they are not meeting affordable housing needs and that more units - in particular, more rental units and units of smaller size - are needed. The two-family by right zoning is one piece that planners will be bringing forward to council this spring, another is a form-based code which will expand housing opportunities on the ground floor of buildings in commercial districts outside of the core commercial areas. The goal is to allow multi-family housing in the city's business districts to spur economic development and revitalization, support businesses downtown and meet some of the affordable housing needs. An affordable housing amendment has also been introduced to City Council specifically targeted at easing the permitting process for projects creating subsidized long-term affordable housing units. Another proposal they're working out the details of is intended to create incentives for the construction of smaller units. This two-family by right is what they're talking about tonight but she wanted to provide that context of other housing-focused amendments that will be coming forward.

The goal is to address zoning-caused income and equity disparity. The long-standing creation of districts that only allow single-family detached housing has been in place since zoning was first established and served as a way to separate property owners from people who didn't have the opportunity to buy or even rent. Planners want to erect housing on existing infrastructure and encourage a variety of housing types to address a variety of income levels. At the same time, components of the zoning are intended to identify and maintain defining characteristics of existing neighborhoods so that any housing that does come on board fits in with historic neighborhoods.

In terms of process, they hired a consulting firm to help them create these design standards and take a wholesale look throughout the city to come up with a framework for allowing two-family homes.

Following a process between the design consultant and a planning team, including builders, developers and residents, Dodson Flinker provided draft zoning to the Planning Board. Last September, the Planning Board hosted a public forum to talk about the details and as a result, modifications were made. Also, the Northampton Housing Partnership made a recommendation to open up and allow two-families throughout the city.

She showed areas of the zoning map where two-families are already allowed by right. The proposal is really about allowing two families in the remaining portions of the city, i.e. - Urban Residential A (URA), Rural Residential (RR), Water Supply Protection (WSP) and Suburban Residential (SR) districts.

As further data points that inform this process, Ms. Misch noted that, over the last 20 years, the city has actually experienced a net loss of housing units. They've gained in single-family units but have lost some two families. Since 2013, they have continued to gain units but, in looking at a 20-year span, Northampton has lost units over time. Even adding more opportunities for units just keeps them level with where they are now and potentially brings them closer to where they were 20 years ago.

She showed a sampling of two-families throughout Northampton.

In the package of 10 ordinances before them tonight, the individual ordinances work together to accomplish the following:

- ❖ Shift definitions to eliminate the distinction between accessory dwellings and two-families (an ADU becomes a two-family)
- ❖ Eliminate the 900-square foot maximum cap on second units
- ❖ Create design standards for new construction of two-families
- ❖ Change tables for URA, URB and URC and tweak parking and garage locations.

There has been some confusion for the past several years as to the interpretation of some design standards in the tables which they have sought to clarify, and they are also taking the opportunity to do some cleanup of the tables.

Initially in this package was creation of an incentive for smaller unit sizes by site plan but one of the Planning Board members discovered a recent case from eastern Massachusetts that plays into this ordinance that they would recommend committees look at more carefully.

Within each district, the lot size requirement for a two-family home would be the same as the requirement for a single-family home and there would be no expansion of the footprint. Minimum lot size, frontage, depth and width remain the same. Building placement and massing are two elements addressed within the design standards proposed.

The work of looking at neighborhoods throughout the city and identifying their characteristics is the basis on which design standards were created. Zoning currently requires covered front entries for single-family residences and this would carry over for two-families.

Other elements in the zoning include restrictions on parking and garage location not just for two-families in the URA, URB and URC districts but for two-families in outlying districts. The standards are related to dispersing parking; existing parking requirements based on the number of units are not changing. A screening component is included to address a concern heard about tree-cutting for new construction. This provision requires replacement of any trees removed which are more than 3" in caliper.

There is also a provision that the heating system for any of these new two families be fossil-fuel free; i.e., no gas or propane furnaces are allowed. All heating systems would be electric or heat pump/electric combination. This is important as they move forward and ties into the stronger goal statement coming out of the Climate Resilience and Regeneration Plan.

Zoning must walk a fine line as far as items covered in the building code, Ms. Misch advised. Planning Board Member David Whitehill brought to her attention that a Town of Brookline bylaw requiring fossil fuel-free heating systems for every building was overturned by the state Attorney General for crossing the line by going into the purview of other codes. This is late-breaking news, meaning they need to think of another way to modify the package to make sure new construction does include fossil-free heating systems. Her recommendation would be to allow two-families by site plan approval instead of 'by right' in outlying districts, since this gives planners the ability to impose requirements that might otherwise be considered over-stepping for 'by-right' projects.

She also got a comment expressing confusion about parking requirements so she suggests clarifying Section 8.8 D(2) to clarify that parking should not be allowed between houses and streets except for one space.

Another question came up related to the build-to zone and how it affects existing homes that don't currently meet the build-to requirement in the design standards. She agrees it makes sense to let projects move forward even if existing conditions don't meet the build-to requirements.

She is proposing to delete an amendment that would exempt two-family dwellings under 3,400 square feet from site plan approval since her new recommendation is to trigger site plan approval for two-families of 2,000 square feet or more to allow planners to impose the condition of fossil fuel-free heating systems.

She wanted to keep her presentation at more of a conceptual level but she would be happy to go through details of the ordinance as questions come up, she shared.

Members briefly discussed how to proceed. They decided to open the floor to comments from the public before inviting questions from the boards.

Councilor Dwight asked if the proposed changes have been vetted by the Northampton Energy and Sustainability Committee (NESC) since it is germane to the point about non-fossil fuel heating systems.

She doesn't believe so, Ms. Misch said.

Councilor Sciarra moved to open the public hearing. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote. The public hearing was opened at 7:37 p.m.

Since the Planning Board does not closely adhere to formal parliamentary procedures, its members considered the public hearing to be opened as of 7 o'clock, Chair Kohout said. He recognized Councilor Jarrett.

He and Councilor Maiore serve on NESC and, at its December meeting, NESC voted to endorse this package both for its fossil fuel-free section and sustainable transportation and energy-use goals since two-families are more energy conservative than single-families, Councilor Jarrett advised.

PUBLIC COMMENT

Chair Kohout opened the floor to public comment

Ace Taylor (they/them) of 14 fruit Street said he is a homeowner and landlord but is here tonight on behalf of the housing partnership. He wished to give the housing partnership's support of all of these amendments. They think this will strongly improve the amount of available housing in Northampton, particularly affordable housing, and will also simplify zoning rules and requirements which they recognize as a difficulty for potential developers.

Diane Scott of 44 Landy Avenue said she lives across the street from a property that has been sold and they don't know how it will be developed. One of the things that caught her attention in the presentation was Ms. Misch's mention of maintaining the character of historic neighborhoods. Would only the historic nature of a building be considered as part of the character of the neighborhood? She asked. What other aspects of maintaining neighborhood character would be taken into account?

The idea was to look at the defining features of existing neighborhoods, Ms. Misch clarified. Particularly in URA, B and C districts, it is really about looking at the form and location of structures in relationship to the street. For example, one proposed standard is creating or requiring covered entries since having a transitional space between the residence and the street has been a characteristic of neighborhoods throughout the city. Another design feature is having parking or an attached garage located to the side or rear rather than next to the street because that's how neighborhoods have traditionally been developed.

Alden Bourne of Liberty Street asked who the changes are likely to appeal to in terms of property owners and what the possible unintended consequences are.

The goal is not particularly to focus on one group or owner over another; it's really to allow opportunity and flexibility for both existing homeowners and prospective Northampton residents, Ms. Misch responded. Property owners might need some income to offset the financial burden of the property while prospective residents might need affordable rentals if they cannot otherwise afford to buy in Northampton. It really sort of covers the spectrum and is not targeted at one group over another.

Regarding unintended consequences, it is really hard to say at this point, Chair Kohout added. It might take a little time to roll out.

Penny Geis of 1 Front Street thanked Councilor Maiore for letting everyone in Ward 7 know about this because they are more impacted than any of the other wards. She wanted to give a big thank you to Ms. Misch for answering her questions. As late as 9:30 last night she was on the job answering questions. Because of that, her concerns were addressed. Her final comment is a thank you to those on the committees for thinking about both environmental and inclusionary aspects of zoning.

Bucky Sparkle of 87 Grove Avenue, Leeds, commented that when he looked at the bylaw, he saw a lot of cookie-cutter lots, and his is not one of them. Even though it is conforming, it is weirdly shaped with weird site conditions. The build-to zone as well as some of the parking requirements are not viable on his lot because of its configuration. He understands it's unlikely for them to just throw the requirements out, but he is hoping they will be able to add some wording that makes it easier for the Planning Board or potentially the ZBA to allow modifications to the standard parking and screening requirements. He fully supports the requirements but, in looking at his property where he wants to build a second dwelling, he sees some strong restrictions and is terrified of having to go through a variance process. He is hoping there can be language added to make it a little easier for permit-granting authorities to allow irregularities based on each individual lot.

Bill Ryan of 129 Warner Street said the last time he came before the Planning Board was to discuss the project at 170 Federal Street. He has two concerns about the pending amendments. First, they are looking at even larger homes. He is totally in favor of two-families as long as they are within the character and scale of the neighborhood. These aren't; they're just too big. This zoning is really designed for very urban areas, and that's not the character of Bay State at all. Second, looking at it through the eyes of a developer, he noticed that some of the lots in Bay State are kind of wide and very deep. Developers are able to build on the frontage but it is hard to get into the backs of those lots. Because of the elimination of attached and detached accessory homes in favor of being able to have two houses (sic), developers are now going to subdivide some of those deep lots into three or four lots and build way back in order to get the minimum size lot for each of the two houses. They are going to end up with a property where developers will knock down the house, cut down all the trees, subdivide the land into multiple lots and build two houses on each lot, all out of character with other houses in the neighborhood. Bay State is a very small-scale, intimate neighborhood. The definition of sustainability is meeting the needs of the present without compromising the ability of future generations to meet their needs. This zoning is not meeting the needs of the present at least in their neighborhood. He knows it is all done for affordable housing, but the price is going to be determined by the market, and older affordable houses are going to be replaced by houses that are much more expensive. They already have unintended results from the 2018 amendments.

Councilor Jarrett said he wanted to speak primarily in support of the ordinance. He has talked about how it uses less resources to construct two-families and how two-families are generally more affordable, but he particularly wanted to talk about how it is in line with the Sustainable Northampton Plan. It promotes building more units in walkable, bike-able areas that are close to public transit. It minimizes tree loss compared to traditional suburban development that cuts acres of tree, covers farmland, fragments habitat and is completely car-dependent. Zoning has been designed to preserve the natural and agricultural areas in outlying areas. As far as cost, adding a unit to a single-family is a less expensive development process because the land cost is already paid and existing utility connections can be used. It allows construction that actually meets the definition of affordable. There is great demand for housing and if they don't increase the supply, it is just going to drive up prices. "We aren't going to like all the buildings that get built," he realistically acknowledged, saying he certainly supports more work on design standards. As a community, they can be proactive in trying to encourage the kind of development they want.

3,400 square feet is a large two-family, he continued. There are 888 two-families in Northampton and only 17% are larger than 3,000 square feet. In his ward, including Bay State, most are not that large; the average two-family is 2,500 square feet. He would suggest considering a smaller threshold to trigger site

plan review, which in turn triggers the significant tree ordinance. The tree ordinance contains a provision for screening, but no matter what size tree is removed, it is only required to be replaced with a one-inch (1") tree. There is a difference in cutting down a 20-inch tree vs. a three-inch (3") tree, so he would recommend considering a more nuanced approach there.

Some lots are very deep, he observed. He asked if there is any restriction on how deep in a lot a detached second unit can be built.

Lots cannot be divided into separate parcels unless they meet the minimum frontage requirement, and there is no change to frontage requirements, Ms. Misch responded. The package does not alter frontage or setback requirements. [Other than the requirement to meet setbacks from the rear property line], there is not a limit to where on a property someone could put a second unit. A detached unit would trigger site plan review and, at that point, the Planning Board would look at screening particularly for headlights and parking location. The size could be any size just as for single-family homes. In Bay State, a builder could build a two-family home of any size now. The Planning Board doesn't currently have the authority to say, 'No, you can't build that - it's too big.'

Regarding the 3,400-square foot threshold, she would suggest getting into a discussion later of striking that and having everything over 2,000 square feet trigger site plan review since this gives planners the ability to require fossil fuel-free heating systems. Councilor Jarrett's request to maintain the 2,000 square foot threshold is consistent with this recommendation.

Johnny Scarborough of Garfield Street, Florence said a couple of people mentioned the clear-cutting of lots and the size of the trees. A 100-year old spruce tree is probably coming down for a home going in across from his house. He asked what putting in all these houses will do to the sewer and water lines. With regard to runoff, are there going to be on-site dry wells? He asked. And, as far as fire safety, now that some homes are going to be attached, are they going to have fire suppression systems like in apartment complexes?

Lastly, he expressed concern about the loss of unique neighborhoods.

Fire suppression requirements are found in the building code, Chair Kohout advised.

Fire suppression is triggered by a new three-unit, this is totally a fire and building code issue, Ms. Misch confirmed. Dry wells do not work everywhere, it depends on soil conditions. As part of site plan review, the Planning Board looks at drainage. Property owners are required to maintain drainage on the property and not shed or direct it offsite.

Ellen Koteen of Sylvester Road voiced her impression that planners are trying to sell the zoning change by the aspect of affordability, but there has been no discussion at all of financial restrictions to be placed on two-families. A two-family in and of itself is not necessarily affordable, she pointed out. Unless there is some kind of a restriction, she thinks selling it as a way to achieve affordability is fallacious.

The intention of the ordinance isn't to say these are all going to be affordable units, Ms. Misch stressed. The goal is to create opportunities for housing at all different levels. Some will be higher-end housing, others will be more modest, what they call market-rate affordable. As she mentioned at the beginning of her presentation, planners are also looking at affordable housing-specific zoning that would have deed

restrictions for affordability but that's one component to bring to the table along with opportunities for housing at different levels, which they also want to provide.

Builders want to maximize their profits, Ms. Koteen noted. Creating the opportunity for affordability doesn't necessarily mean people are going to take advantage of it.

However, the city has had many units created by families who initially wanted to create a second unit for a family member, Ms. Misch countered. For example, on Sylvester Road, there are properties with accessory apartments that now offer an opportunity for a homeowner to make some income and for a tenant to afford a rental in an area where they otherwise might not be able to break into the market. In other words, there are different ways second units could be built. Many times it is about individuals who opt to add a second unit to their existing property.

Debra Bercuvitz said she feels heartbroken right now because she loved Ms. Misch's presentation and can't believe she finds herself opposing what looks so good, but she doesn't buy it for one second; she doesn't think it is going to turn out that way. That's because she heard the same thing about Hospital Hill. She heard it was going to lead to mixed-use development, more affordable housing and walkability. She heard the same thing about infill development, and instead they're looking at outrageous development by John Handzel throughout the city. She believes this is going to be a great financial boon to developers. She feels really sad because she wants more two-family housing, wants more affordable housing and wants more walkability, but she doesn't think that is where this is going to lead.

She would like to offer suggestions for what the city *could* do. Planning Director Wayne Feiden was referenced in the Gazette today as saying this change should increase the rental stock. Don't just hope that it will, if what you aspire to is more rental units, put that in the zoning by saying that one of the two units must remain a rental, period, or that, if there are two separate buildings on a lot, one must remain a rental in perpetuity, she implored. Or incentivize the rental unit with a lower tax rate. Also, consider having a different two-family requirement for owner-occupied properties. Homeowners typically make different choices around development of their properties and are typically more accountable to neighbors and more responsible about maintenance. Regarding lot sizes, she thinks the city is not being transparent enough in providing maps to show what neighborhoods would look like under full build-out with infill zoning and these changes. She would like to see what every neighborhood would look like with the option of having two families and the changes in lot size. She personally thinks a 37,500 square-foot lot size for a two-family is a kind of urban density they don't have yet here.

She suggested thinking about having more nuanced zoning within URB because downtown Northampton and Florence is very different than Bay State. What Bay State is having are very dramatic changes very quickly that don't recognize the character of the neighborhood. She recommended revisiting zoning changes every five years to evaluate positive and negative results.

As a big request, don't allow this on contiguous lots that are subdivided from other lots, she urged. It will be a subdivision work-around used by developers, she suggested, citing 170 Federal Street as an example, which she quoted the building inspector as referring to as a 'compound.'

Finally, repositioning a garage to her is not the kind of design standard they really need, so she encouraged more meaningful design standards. Most importantly, go slow and make sure that what you want to have happen happens. If they institute these changes, do it with a sunset clause, maybe 12 to 24 months, and

then reevaluate. She urged the same with infill zoning since they are seeing problematic outcomes. They are responsible for massive changes to the city that can't be undone. These changes should be continually evaluated on a mandated schedule embedded in the zoning legislation, with maintenance of the regulations weighed in terms of the initial goals of the changes. If they want 75% of all new two-family properties to be rental, that's aspirational, and if they get 25%, something needs to be changed.

Don't let people who purchase properties in that 12- to 24-month period take advantage of the changes because she thinks they're going to find even greater bidding wars that tip the scales in the favor of deep-pocketed developers because there is tremendous additional financial incentive with these zoning changes, making each property that much more lucrative.

"Be visionary, be responsive, be measured and be accountable, or your legacy will be one that's predictable and likely one that's far from what you're hoping it will be," she concluded.

Amanda Turk of Summer Street, a downtown resident for 22 years, seconded Mr. Sparkle's request that the text of the zoning be changed to allow atypical lots to get approval without requiring a variance or ZBA application.

Magaly of Dickinson Street echoed a lot of the comments made by Bill Ryan, particularly his concerns about big houses changing the character of the neighborhood and the impact of more houses on the water and sewer system. Has there been any update to the water and sewer plant? She asked. She expressed her understanding that the city recently approved upgrades to the Wastewater Treatment Plant (WWTP) and wondered if the possible increase related to infill zoning had been folded into these plans. She also thanked Ms. Bercuvitz, endorsing everything she just said.

Regarding infrastructure capacity, the Planning Board had a meeting with the DPW director a couple of months ago and talked specifically about infill zoning and expansion. At this point, DPW administrators don't have any concerns about the robustness of the system; they believe it can handle it, Chair Kohout reported. Certainly, some areas of the city have older infrastructure and the DPW is planning to do some work in the downtown area, especially on Main Street.

Zoning already allows second units by right throughout the city, including in URA, B and C which is served by city sewer, Ms. Misch reminded. In the outlying areas, a significant portion of SR, RR and WSP are on private systems.

Rue Walther of 16 Warner Street, an abutter of 170 Federal Street said she would like to offer a cautionary tale. She would like people who live in these other areas and are putting their trust in these rules and regulations to drive up 16 Warner right now and look at her little red house which is about 1,000 square feet and see what's now next door to it. Definitely not affordable housing, anywhere from \$600,000 to \$800,000. She's not upset about the price of the home per se. What she's upset about is she put her trust in a zoning committee. From her experience, be careful because, there is not a lot of oversight. It appears to her at this juncture that pretty much anything goes and the more taxes a structure generates the happier the city will be.

Directing himself to Ms. Misch, **David Murphy of North Elm Street** said he noticed the WSP overlay is going to change a lot with this. He asked her to elaborate.

The biggest change is converting the existing table to a format that matches the other tables and clarifying design standards and dimensional requirements, etc. through graphics, Ms. Misch explained. The items in red font are the text changes proposed.

A whole bunch of URA off Ryan Road, between Ryan Road and Burts Pit Road, is covered with WSP overlay. What's going to happen there? Mr. Murphy asked. Are they going to be able to do this or is this going to block them out?

The city did get rid of the overlay so WSP is now the zoning district, Ms. Misch confirmed. For single-family homes in WSP right now, a home owner can have an ADU, it is just capped at 900 square feet and properties are required to maintain 65% minimum open space. That would still hold even with a smaller two-family or something bigger than 900 square feet. The change would essentially be expanding the cap to allow someone to build something more than 900 square feet.

Mr. Murphy expressed his understanding that the prohibition that originally came with the district is not really there anymore, but Ms. Misch said it *is* still there, it is just built into the open space requirement.

Mr. Murphy commented that he has heard a lot about the undefined concept of workforce housing, particularly around Village Hill. He sold a one-bedroom condo on Village Hill for a price above the average value of a single-family home in Northampton, he related. Most sales have been from \$500,000 to \$600,000 and up to \$900,000. He thinks they really need to define the term 'workforce housing,' because people tend to throw that term around. It's really expensive for new construction up on Village Hill. It's above the average value of a house in Northampton, and that doesn't seem to him like workforce housing.

At the beginning she talked about the attorney general's ruling on the fossil-fuel portion of the ordinance. For ages he's talked about how it is really difficult to have a public hearing on an ordinance when one of the elements is in flux. He encouraged members to wait and see what the impact of the AG ruling will be. It would be hard to move forward without having the answer to that question. This is a discussion that is needed to be had for a long time, and he is glad to see so many people participating. It is definitely going to have an impact on things on the ground in Northampton. It has the potential to be really beneficial and create a lot more housing units and also has the possibility to be really disruptive to the neighborhood. A lot of the reason many of these builders are creating as large and as expensive buildings as they can is stretch code. They decided as a community that they wanted to mandate stretch code, and that makes the cost per square foot of construction expensive. It's where they want to go as a community, but there's a cost related to that. It incentivizes builders to build something as big and expensive as they can to try to recoup the cost of the energy efficiency and stretch code built into the building code.

Regarding the AG ruling, Ms. Misch clarified that this was in another community, it's not anything pending in Northampton. The city solicitor did review the ordinance and didn't have a problem with it. They're just recommending moving forward in a more cautious way, by making developments subject to site plan review.

Milton Handzel, accompanied by Emma Handzel of 275 Riverside Drive thanked Bill Ryan, who lives on Warner Street. Anyone who lives on Warner Street and isn't just fit to be tied about what's happened there is to be commended for self-restraint, he commented facetiously. He doesn't mean anything against Rue who lives next door, but that is not at all consistent with the character of the neighborhood, it is consistent with unintended consequences. He has lived in town for 30 years and has seen a lot of good intentions go

awry. He applauds the hard work and good intentions of the Planning Board but it does not look ready for the real world yet. "We need to do a better job of anticipating what profit and market-driven forces will do to a well-intentioned zoning bylaw," he suggested.

Referring to Hospital Hill and 170 Federal Street, before planners loosen even more restraints on development, he thinks residents need to know city officials can clean up some of the mess they already have, he continued. "Before we give you the keys to the car, we want to remind you that you crashed the last two," he quipped. He is having a hard time trusting his town to loosen restraints and restrictions on developers. With a seemingly unlimited supply of urban money from Boston or New York prepared to move in, he doesn't see how allowing more development in town is going to reduce the stress the market imposes on open space in outlying areas.

When making a relaxation, he asked if they can restrict relaxed regulations to homeowners who have lived here for five years and not extend them to developers. He thinks they need less development by right, not more.

Going back to before 2010, the approach was to not expand infrastructure to outlying areas but to create opportunities for development in areas where people can bike or walk and not have to get into their car for every single trip, Ms. Misch explained. Planners know there is housing demand and know people are moving to other communities and driving to Northampton for all their goods and services because they can't afford to live in Northampton, exacerbating traffic and congestion and negatively impacting air quality. They certainly can't arbitrarily say one person is worthy of having a unit and someone else is not; that's how zoning started to begin with. They're trying to erase that history of exclusion.

Mr. Handzel clarified that he is trying to make a distinction between homeowners and builders.

Marissa Elkins said she thinks it would be difficult if not legally impossible to make the ability to build dependent on the length of ownership.

Reyes Lazaro of 172 Federal Street said she wanted to express her deepest support to Debra Bercovitz, Rue and others from the Bay State neighborhood. Their comments are very profound and have to do with good development. They are not people who do not want changes; please listen to them, she implored.

Joyce said she needed something to give her some hope in these very dark days, and this kind of debate gives her hope. She thanked them for their hard work and for listening. She stated her intention to say what she hears so many people speaking passionately about, namely, the fear of the loss of their unique neighborhood, which is the loss of their own unique place in the community. She wondered if there could be definitions of affordable housing and a requirement that a certain amount be expected. She also hears a concern for more rigorous design standards since design standards help maintain the character of their neighborhoods.

Holly Quigley, with **Michael Quigley of 131 Riverside Drive** said she also sees the back of the interesting development next to Rue's house. Listening to both sides and listening to the proposed changes, she believes they are looking out for the neighborhood but thinks they are a little bit short-sighted in what they are allowing and expanding. She was hearing two different things being said; on the one hand [that there will be] affordable housing and on the other, that it's not going to be all affordable. She remembers the state

hospital grounds and that that was all supposed to be affordable housing. She could not come into this town now and afford this housing.

She encouraged planners to look at the empty factory on Federal Street as possible affordable housing. Maybe they can start directing people to certain areas rather than taking the green space behind people's houses. She knows taxes are going to go up. Regarding the DPW's claim that the infrastructure can handle it, didn't the DPW fix an area at the bottom of Riverside Drive to take care of drainage going into the pond on Federal Street? She asked. She's not sure that drainage was fixed, so she's not quite sure she believes some of the things being said. She wants people to step back before going forward because once they go forward there's no going back.

Kathryn Komidar of 129 Warner Street said she wanted to respond to the discussion about the character of the neighborhood. She is also interested in making a more inclusive neighborhood with more affordable housing and coming up with a creative plan to help steward their land into the future in a way they can all sustain. But she doesn't believe offering up Bay State as a sacrificial lamb is going to fix the ills of the climate crisis or the socio-economic inequality of their world. That is what is happening with the amount of density and changes being proposed. She doesn't believe that the big system can be fixed by annihilating the small system they have here. The neighborhood in Bay State is a treasure. If you walk through their village now you see large, half-acre or more lots, an abundance of woodland and open space, gardens and a preponderance of small and moderately-sized houses spaced generously apart and a neighborhood of residents that live there in part because they value this smaller human footprint on their earth.

"We and many of our neighbors grow small to significant portions of our fruit and vegetables on our land here, providing us with local and affordable food. We and many of our neighbors have small to significant woodlands on our land, providing cooling summer shade, carbon sequestration, pervious surfaces for rainwater catchment and wildlife habitats and corridors. We and many of our neighbors have planted native trees, shrubs and flowers which will have resiliency in the climate crisis and will encourage pollinators and wildlife at risk," she testified.

The new zoning ordinance places Bay State village in URB, and this designation seals the fate of Bay State as just that – a place with as many people packed in as possible. A lot that supports one moderately-sized house now is an open invitation to a developer to build three or four large houses with nothing but a little ornamental grass in between. The more they build and pave, the more disconnected they come from the earth. The more disconnected they become from the earth, the less they value the earth and the more willing they are to build and pave, air-condition, use pesticides and drive and wonder why they're so hungry for feeling alive. What kind of Northampton are we creating by doing that kind of building? She asked rhetorically.

Planners say they have heard that residents are concerned about the character of their neighborhood. She hopes they can also respond to what they're saying and that they can work together, because they all want to grow Northampton in a way that can benefit the world and the future. They don't want to do it at the expense of all that they treasure here now. She hopes this can open a dialogue that can build on what they have instead of destroying it, she concluded.

Diane Palladino of Sylvester Road said her road is probably the most rural road in Northampton. Ms. Misch mentioned that many people there have two-family houses. Her point is it's a rural road and people are very much invested in turning some of their own property to address wildlife corridors and connect to

other green space. They are not interested in having an urban-looking area on Sylvester Road. If she wanted to live in town, she would live in town. She underscored what many people have been saying about wanting the ability to choose where they live in Northampton according to where they feel good about living. Some people want to live downtown, and that's fine. For the rest of them, "we chose to live in certain areas because of our comfort level and what they do for us."

The whole affordable housing is such a ridiculous statement. You can't go anywhere without a car on Sylvester Road; there's no public transportation. For most people looking for affordable housing, this is not the best place.

"Please listen to us; please allow us to choose where we want to live and please don't turn our areas into urban settings when we didn't choose an urban setting to live," she petitioned.

Emile Bensedrine of Randolph Place said he is in full support of increasing the amount of houses that can be on a specific lot and in full support of more affordable housing. He thinks arguments in favor of neighborhood character tend to be rooted in the exclusionary history of zoning. What makes the character of a neighborhood are the characters who live in it, not necessarily its suburban environment, he pointed out. If it's suburban it's not sustainable anyways.

He echoed Debra Bercuvitz's concerns and said he thinks they're incredibly important. He thinks the Planning Board should be much more deliberate in its actions to create affordable housing for the future. As a young person he is afraid he will not be able to live in Northampton and that minorities, people of color and poor people also will not. He agreed with the previous speaker about rural areas and the lack of public transportation. He thinks they need to prioritize currently urban areas for more housing.

Chair Kohout noted that they have been at this for two hours now. Unless there is new information to come from the public he would like to turn it over to the boards at this point, he said.

Several speakers asked about defining affordable housing and commented that this doesn't necessarily create affordable housing, Ms. Misch said. She clarified that at the beginning of her presentation she talked about four different proposals designed to address housing. What this is talking about is attainable housing, which is housing within reach for people of different income levels and not necessarily subsidized affordable housing. They do have a definition of affordable housing and Village Hill has the most subsidized affordable housing per neighborhood of any place in the city. Subsidized housing is built by non-profit developers and occupants must be income eligible, so it's a very different definition. This ordinance is not intended to create subsidized affordable housing but they do know allowing small bits of housing is a piece of the puzzle. They are not proposing to put urban character into rural areas. The city already allows ADU's in all residential areas, so they are just providing the opportunity for slightly bigger units. It is not really any change to the Bay State neighborhood because URB already allows two-family by right.

Magaly said she thinks it's a little disingenuous to call this an affordable housing proposal when it's not, as Carolyn Misch just noted. It's a market-rate proposal and they should just call it that.

There being no further public comments, Councilor Sciarra moved to close the public hearing. Councilor Maiore seconded. The motion passed unanimously 4:0 by roll call vote. The public hearing was closed at 9:02 p.m.

Alan Verson moved to close the public hearing on behalf of the Planning Board. Sam Taylor seconded. The motion passed unanimously 9:0 by roll call vote.

DISCUSSION

Members discussed how to proceed. Chair Kohout presented the options of approaching the subject based on comments heard, drilling down through the 10 amendments or continuing the discussion to the Planning Board's next meeting.

The City Council must act to adopt the ordinance within 90 days of the close of the public hearing, Ms. Misch reminded.

As a general comment, Member Verson said he has a concern about the whole direction and thrust of the amendments proposed. It is clear from all the comments in the last two hours that everyone is concerned about affordable housing. He doesn't understand how this proposal is going to positively affect that issue. He understands the argument about more housing, but the price of housing is roughly determined by what the market will bear and the cost of construction. With this package, they have generally done two things: 1) allowed a builder to build any size second unit, which will increase the cost of whatever gets built, and 2) imposed another layer of regulation, i.e. - design standards that don't apply to a single-family house. He doesn't understand the rationale for saying a property owner can build a single-family house any way they want but if they want to add a second unit, it has to comply with all these regulations. What the regulations are going to do is increase the cost. He thinks there's a danger of doing the opposite of what they're trying to achieve.

David Whitehill said he thinks Attorney Verson brought up a lot of really important issues. Referring to the misperception that this is somehow an affordable housing bill; it is not, he stressed. The affordability of housing is a huge issue, but it is influenced by many factors, very few of which are controlled by city council. They can do certain things and there's a lot they can't do. One thing they *can* do is make the best use of their infrastructure. They have a crisis in terms of the affordability of their infrastructure as a city. Some of these buildings will be expensive and will bring in a fair amount of tax revenue. By bringing more people into the existing infrastructure, new immigrants to the city will share in paying for its cost, relieving them of this ongoing crisis. "We cannot continue to just age in place with no growth because the cost of infrastructure is going to keep going up," he noted. They have to make the best use of the infrastructure that they have.

Regarding framing this in terms of builders and developers, Chair Kohout noted that the two applications the Planning Board has seen so far came from homeowners proposing to build small residences behind their existing homes. One couple wanted to build a small house for their parents and the other wanted to build a house for their son who has special needs. He thinks it is disingenuous to say these amendments will only provide room for developers to move in. A great majority of applicants will be existing homeowners doing something to relieve either their family's situation or perhaps their own financial situation, he posited. He would caution them against thinking this only applies to builders and developers.

Member Verson said he thought that would be true if it were limited to 900-square-foot units.

Councilor Dwight reminded those present that this is part of a comprehensive package. As Member Whitehill pointed out, they are limited in what they can do. They can't impose rent control and can't require people to build various types of housing; they basically can approve regulations that promote the expansion

of inventory, hopefully driving down the cost and demand. Together with the other ordinances mentioned, the package comprehensively creates a better environment to promote the development of affordable housing in Northampton. Every single person who spoke reinforced the importance of affordable housing. It's a little unfair to characterize this as *not* being an affordable housing proposal when in fact it is one leg of a table. They need to concentrate on diminishing the adverse impacts while at the same time keeping the larger picture in mind - that they literally live and die by their ability to have diversity or they will basically become an aging community of residents that are here.

Member White expressed her understanding that lot size, open space and build to regulations are not changing; all that's changing is the ability build a two-family instead of a single-family.

Ms. Misch said yes, with a little bit of a twist. Instead of building a single-family home with an ADU capped at 900 square feet, property owners can now have an ADU with more square feet. Absolutely, setbacks and open space requirements are not changing, she confirmed. It is not an affordable housing proposal, she reiterated. It is an attainable housing proposal that may be more cost-effective because property owners can build a two-family instead of one in the same footprint.

She agrees with David that they need to make the best use of the infrastructure that they have, Member White said. To her, what's fundamentally under proposal is for more people to be allowed to use the space that currently only single-family homes are allowed to use. They heard a member of the public say that people in Northampton should be able to choose the community where they want to live, and currently that is not possible because there is not enough housing for people who want to live in the city, period, let alone have an option for where they want to live. They need more buildings of any kind to make this a livable reality for people who are here and want to stay and those who want to come, she suggested. She's not saying this proposal is perfect, but she thinks they need to expand the housing stock of any kind and that, without that, the city is simply not going to thrive.

Member Taylor commented that residents seemed to be talking about something other than the proposal on the table. Their primary complaint seems connected to a recent development in Bay State; a different issue from the 'yea' or 'nay' question before them tonight. It seems some developer somehow gamed the system to build a bunch of single-family homes. They have to figure out how to stop someone from gaming the system. Despite approving the project in good faith, "he sort of got over on us," he stated. The anger is directed at something different from what they're currently talking about

Member Elkins said she generally supports these proposals and anticipates voting to recommend them subject to hammering out further details. She didn't feel like they had one put over on them but she is well aware of the constraints on their ability to address some of the issues neighbors are seeing. They simply don't always have much leeway.

It is important that people understand these constraints. At every meeting, Planning Board members approve ANR's. If someone wants to subdivide their land in a manner allowed by zoning, they have no discretion to deny it. In the big picture, it is very important legislation. "We must diversify and we must increase the housing stock across all strata of the market." It's very important for maintaining the growth and vitality of this city going forward, she asserted.

One thing she really enjoys about Planning Board is the opportunity to foster community and to foster discussions between neighbors on these issues. There's a lot that can be done in the context of the Planning Board but they can't solve all the problems.

Councilor Sciarra said she feels like a lot of the concerns heard during the hearing were around what is referred to as the 'massing' on the lot. There was a lot of focus on a particular building in Bay State that seems to have taken up a large part of the lot there. She asked Ms. Misch if she could talk more about any changes related to this.

Massing in the proposed zoning is about breaking up large sections of building by creating lower roof levels, attaching accessory structures with different-sized extensions and having projections offset building blocks so they don't form one large rectangular box, Ms. Misch explained. The design standards are specifically for two-families and do not apply to single-families. The houses that were brought up on Warner Street as an example are 1,800 square feet. That doesn't create a large mass. Something under 2,000 square feet is definitely on the smaller scale compared to what's been built in recent years. Again, it wouldn't affect a single-family house.

In terms of adding regulations, this is sort of a light touch on design, she suggested. It isn't adding design that would necessarily add to the cost. She would leave it to the architects to tell her how much a covered front entry adds but a greater share of the cost goes into preparing the building envelope to meet the stretch code. To her understanding, adding something like a covered front entry or requiring that an attached garage be stepped back doesn't significantly alter the cost of construction, but those small design elements and shifts in massing provide differences in the look of projects. One is more consistent with the way neighborhoods are built out and one isn't.

David Whitehill said he has a totally different take from Sam who felt the developer 'got one over' on them. The developer did exactly what the zoning says which is build single-family houses in a single-family zone. Any one of them without any review by the Planning Board could knock down a one-and-a-half-story house in Bay State and build a house exactly like he built. Single-family houses have a special place which can't be touched by review in their zoning regime. What this attempts to do is bring something else into that special zone of something that can be done without arduous review.

What heartens him tonight is they have had a lot of controversial projects in other neighborhoods and none of those neighbors have organized to come here tonight. The fact is, single-family homes that are a little bit bigger than the single-family homes next door will not ruin these neighborhoods. To be honest, even apartment buildings or affordable houses would not ruin these neighborhoods. That is something they should take some heart in.

Chair Kohout said he thinks the Planning Board needs to think about moving on to its other agenda items.

He is in accord with the intent of these proposals and clearly needs to hear more, Councilor Dwight agreed. It is a little premature to let this baby cross the street by itself so he doesn't think they are going to have an opportunity to vote tonight. He benefits enormously from hearing from Planning Board members and so would be in favor of another joint meeting. He doesn't think this is going to be finalized tonight in any way.

Councilor Maiore agreed on the need for further discussion.

Councilor Thorpe said Councilor Dwight eloquently expressed what he really wanted to say. He is in favor of what's presented here and is hoping this is something that's going to provide fair housing options for some of the people who traditionally have been left out of the housing market.

Member Fowler said she thinks there's a lot of good in this and that it opens the door to opportunities.

Member Grenat echoed what Melissa said.

Having this conversation with the Planning Board has been very helpful and she would like to continue it, Councilor Sciarra agreed. She would like to talk more about the late-breaking amendments and how to make sure they are correctly and properly trying to meet energy efficiency goals.

Councilor Dwight proposed adjourning the Legislative Matters portion of the program and arranging for another joint meeting. Members agreed to meet February 8, 2021 at 7 p.m.

7. **Adjourn**

Councilor Sciarra moved to adjourn. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote. The meeting was adjourned at 9:41 p.m.

Prepared By:

L. Krutzler, Administrative Assistant to the City Council
413.587.1210; lkutzler@northamptonma.gov