

Call to Order:

The meeting was called to order at 7:34 p.m. Present were members Jay Doherty, Joan Duff, Ann Knowles, and Associate Member Steven Pouliot; also present was Paul Materazzo, Director of Planning.

Town Meeting Warrant Articles:**Article 51 – Zoning Bylaw Amendment – Historic Mill District:**

Ms. Duff opened the public hearing on Town Warrant Article 51 Zoning Bylaw Amendment – Historic Mill District.

Charles Kendrick of 8 Forbes Lane, the proponent of this article stated that it is private article filed to make sure that voters were given the chance to approve or disapprove the Historic Mill District articles. It is substantially the same as articles 49 and 50, but some changes have been made to those articles. He added that the intention is that the private article will stay on the warrant until the residents are able to vote on the public article. Once the residents vote on the public article, this private article will most likely be withdrawn. Mr. Doherty asked what they will do if the public articles are defeated at Town Meeting. Mr. Kendrick stated that he did not have an answer for that, but the exercise is to make sure that the voters have their say. He noted that when the Board of Selectmen discussed this article they also mentioned the same thing and agreed to this process.

Mr. Doherty asked if the text of this private article is the same as the public article. Mr. Kendrick stated that it is not exactly the same because so many groups have looked at the public article and made Town Counsel has approved changes to it. The public article also has an official map. Ms. Knowles asked if there will be a need to attach a map to the private article. Mr. Kendrick stated that he is not sure but there is a map embedded in the private article.

Mr. Doherty asked Mr. Materazzo if there was any way to highlight the differences between the public and the private article before the Board took a position. Mr. Materazzo stated that he could provide the Board a red line version of the article.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the public hearing on Zoning Article 51, Historic Mill District to April 28th at 7:30 p.m. **Vote:** Unanimous (4-0).

Article 34 Zoning Bylaw Amendment – Congregate Living Facility:

Ms. Duff opened the public hearing on Town Warrant Article 34 Zoning Bylaw Amendment – Congregate Living Facility.

Heather Lauten of 243 Lowell Street addressed the Board in regards to her private warrant article. She stated that this amendment is to clarify the definition of congregate living facility as she finds to current definition to be unreasonably vague and open to a broad interpretation by the Inspector of Buildings. She would like the definition to be more in line with the definitions given by the Massachusetts Department of Elder Affairs and the Andover Council on Aging, as well as the descriptions of these types of facilities in the Merrimack Valley. She noted that these

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other definitions state that living, dining or bathing facilities should be shared. This article would replace the last sentence of the current definition to identify the shared facilities. She noted different materials that she provided to the Board in their packets, but pointed out that she did not provide the North Andover definition of congregate care which mirrors the first part of Andover's definition, but not the last. She feels North Andover's definition more accurately reflects congregate housing.

Ms. Knowles asked Mr. Materazzo if the Town's definition preceded the state's definition. Mr. Materazzo stated that he did not know when the State's definition was drafted, but the Andover definition was drafted in 1997. Ms. Lauten stated that she did not have dates of establishment. She noted the Department of Elder Affairs has a clear definition while Mass.gov has a broad description which has the sentence in the Andover definition that she is looking to revise.

Ms. Knowles stated that she is concerned that this change would preclude some of the options available now. She wondered if there are other ways that the definition may come to bear in other cases. For example, if congregate care facilities can apply for HUD funding, and HUD is as flexible as the Town is, why should the Town be stricter. Ms. Lauten noted that she provided material from HUD on their meals program in which it states congregate housing must provide a shared meal in a group setting. Ms. Knowles asked if this material focused on funding for housing. Ms. Lauten stated that it was for funding for the provision of meals. Ms. Knowles asked for clarification that the HUD material provided had no connection to the approval of buildings themselves. Ms. Lauten stated that she did not find any material on that.

Ms. Duff asked Ms. Lauten if this would require meals to be provided on a regular basis or if residents could have their own kitchen. She questioned if they would be doing anything to put the single units that have their own kitchen and bathroom at risk. Ms. Lauten stated that she would consider those to be discrete units and independent living instead of congregate housing. Mr. Pouliot asked if it was correct that the other definitions allow for only a private bedroom with other facilities shared, while the Town of Andover Bylaw allows for the kitchens and more to be shared. Ms. Lauten stated that the current definition says facilities may be shared, and this allows the definition to be broadly interpreted allowing for independent units. She emphasized that the purpose of congregate living is to allow for socially isolated people to engage with others.

Ms. Duff stated that she thinks about the transition that takes place when a person's needs increase and she thinks that is why those units are there. Ms. Lauten stated that Chelmsford calls congregate housing as transitional housing. People who can't live independently but don't need assisted living or skilled nursing can live together. Ms. Duff asked if that type of arrangement does not have discrete units. Ms. Lauten stated that it tends to be group facilities of apartments with four to five bedrooms with shared dining and shared living. Ms. Duff asked if the discrete units count as congregate housing if they are in a transitional facility. Ms. Lauten stated that congregate living is people living together in apartments or small houses.

Mr. Doherty stated that he was not sure that the definition wasn't written for a specific reason and he would like to speak to Mr. Chiozzi and others who were on the Planning Board at that

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time. Ms. Lauten noted that it is different in very specific ways by using the word “may” instead of “shall,” and using “may” reflects the broad description. She noted that “shall” is used in every other Merrimack Valley community.

Ms. Knowles stated the Board had received a letter from Linn Anderson, a former Planning Board member who has historical background on the Bylaw, and Mr. Chiozzi who was not present at the meeting tonight should be able to comment as well. Ms. Lauten stated that she would be interested in knowing the historical difference and distinction between independent and congregate housing which she feels should be implicit. Ms. Knowles noted that the Town did vote this in as written in 1997. She added that there is a role to be played in looking at the definitions to make sure that they say what the Planning Board wants them to say. She added that she was hesitant to give up flexibility, and wouldn't mind asking for more in housing. Ms. Lauten stated that the Town already has flexibility with alternative definitions of elderly housing that cover a variety of housing options. She added that independent living is similar to congregate care but can be discrete living units. Mr. Pouliot noted that seeing several definitions of congregate living and knowing that the Bylaw was passed in 1997, he felt that it should be looked at to see if it warrants a change.

Chester Lyons of 10 Wild Rose Drive noted that in the state definition, thought went into social goals with the key being shared facilities that decrease isolation and increase interaction. The current definition subverts the primary goal of facilitating housing with this sharing element. Independent apartments are not congregate housing. The Town should conform to the state version because it conveys economic benefits to developers of true congregate housing. The current definition seemingly allows anything to be considered congregate housing.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the public hearing to April 28th at 7:30 p.m. **Vote:** Unanimous (4-0).

Article 32 Zoning Bylaw Amendment – Assisted Living Residences:

Ms. Duff opened the public hearing for Article 32 Zoning Bylaw Amendment – Assisted Living Residences.

Mark Bernardin of 140 Elm Street addressed the Board in regards to his private article. He stated the article is a change in the density, height and setback requirements for assisted living residences to make them more appropriate for residential neighborhoods. This would change the density allowed from 1 unit per 3,000 s.f. of lot area to 1 unit per 6,000 s.f. of lot area in residential districts. The business and mixed use districts would allow for greater density of 1 unit per 1,500 s.f. of lot area.

Ms. Duff asked Mr. Bernardin what his rationale was for the dimensional changes. Mr. Bernardin stated that in looking at existing proposals before the Board, people were surprised that buildings of that size could be built in a residential neighborhood. This is a way to scale it back so that proposals can conform to people's expectations.

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Ms. Knowles stated that in regards to height, if single family homes can be 35 ft, it doesn't make sense that you wouldn't allow the same height for this type of building. She added that the Inspector of Buildings may want to revisit heights at some point, but zoning is meant to be applied broadly across a zoning district. Mr. Bernardin stated the difference is that these buildings are nothing like a residential dwelling in mass and width. A 40 ft high building 200 ft across looks out of place. It should be made to be less noticeable in a residential area.

Ms. Knowles asked Mr. Materazzo if it is legally allowable to have one set of dimensions for a single family home and another set for larger buildings. Mr. Materazzo stated that he would rely on the Inspector of Building's interpretation, and added that if this article is approved at Town Meeting, it then is reviewed by the Office of the Attorney General who would confirm the Town's decision or report back. Ms. Knowles asked if that meant standards could be in limbo under those circumstances. Mr. Materazzo reiterated that if the Attorney General felt that it was in conflict, it would be sent back to the Town to reconsider.

Mr. Pouliot offered that the Board consider not allowing these types of facilities in SRA or SRB zones unless there was a different type of approval process that made the buildings the size and shape of a residential building. Mr. Materazzo stated that in order to get that formula right you would want to investigate study and test it, which is not being contemplated in this warrant article. He added that this Bylaw was approved in 1997 and in the coming year the Board can decide if they want to take a more comprehensive look into it. Mr. Pouliot asked what that process would be. Mr. Materazzo stated that generally the Town process for a zoning change begins between May and July with initial conversations with the Board and getting out into the community. Mr. Pouliot asked how the process could get started. Mr. Materazzo stated that after this year's Town Meeting the Board can begin discussions on what they would like to work on for Town Meeting 2016. The Board of Selectmen could then be engaged as some members have shown an interest in this section of the Bylaw. Liaisons can be gathered from the Selectmen, the Council on Aging and area residents to form a working group. Mr. Materazzo encouraged Mr. Pouliot to be the Planning Board member to spearhead the working group. Mr. Pouliot added allowing these types of buildings in residential areas may want to be reconsidered.

Mr. Bernardin stated that it is important to remember that these uses are allowed by special permit, not by right. The Town can establish whatever dimensions that they want within the special permit law. He added that he would be shocked if the Attorney General didn't agree with changing the dimensions, because that is what special permits are all about. Ms. Knowles agreed with Mr. Bernardin, but added that the process the Board goes through needs to ensure that whatever language they end up with is feasible in terms of development. One way to do that is to allow what has been allowed before. She added that she gets the distinct sense that the Inspector of Buildings may want to revisit the height controls.

Chester Lyons of 10 Wild Rose Drive stated that the proposal is to increase density in the general business district, which is a good thing, and decrease the density in other areas which addresses the issue of the mass of the building. He stated the Strawberry Hill Farm building was massive, high and close to the road. This would increase the density where you want it, downtown, and decrease the density where people don't want it. The issue of height is complicated, but setbacks

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and density are a bit simpler. He agreed with Mr. Bernardin that the special permit process allows the Town to make up the rules and extort concessions from the developer. If you don't intervene aggressively in the purview of the special permit you end up with a large out of place building. Ms. Duff noted that the Board has had great success with concessions. She added that the Board also needs to determine if anything would be buildable if these changes were made. Ms. Knowles felt the Board will need further thought on this article.

A resident who did not give his name or address stated that even with the density changes, any proposals would still be much denser than existing neighborhoods. Buildings of this size put pressure on the school system. He questioned why these numbers for density are being put forward, and felt the number should be changed to match the residential neighborhoods even more. Mr. Duff noted that Mr. Bernardin chose the number for his private article. The resident asked what the reasoning is behind this number, and why something more like 1 unit per 10,000 s.f. was not being proposed. He felt that people do not want such a big change allowing for large dense buildings in their neighborhoods. Ms. Duff pointed out that this is a private article drafted by a resident, and the Board cannot amend it.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the public hearing on Article 32 Zoning Bylaw Amendment – Assisted Living Residences to April 28th at 7:30 p.m. **Vote:** Unanimous (4-0).

Article 33 Zoning Bylaw Amendment – Long-term Care Facilities:

Ms. Duff opened the public hearing for Article 33 Zoning Bylaw Amendment – Long-term Care Facilities.

Mark Bernardin of 140 Elm Street, the proponent of this private warrant article stated that there are not a lot of dimensional requirements in the Zoning Bylaw Section 7.4.6 and he would like to apply the assisted living requirements to long-term care facilities. He added that when bringing this article to Town Meeting he will be making a motion for an amendment on the floor to clarify that the dimensional requirements are for all three single residence districts. He noted that long-term care facilities are allowed in the SRC district, but assisted living facilities are not. He stated that the idea is to give the Town a little more control over what happens in residential areas.

Ms. Knowles asked Mr. Materazzo what his take was on this. Mr. Materazzo noted that this article is just clarifying that section of the Bylaw so that there is more information guiding any developer looking to move forward with a long-term care facility.

Ms. Knowles asked Mr. Bernardin if this would limit or further constrain where long-term care facilities could go. Mr. Bernardin stated that long-term care facilities can now be developed in all three residential zones and that would not change. He added that if the changes to Section 7.4.3 of the Bylaw do not pass, it still may make sense to pass this because it gives more guidance on the question of dimensional requirements and limitations for long-term care facilities.

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On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the public hearing on Article 33 Zoning Bylaw Amendment – Long-term Care Facilities to April 28th at 7:30 p.m. **Vote:** Unanimous (4-0).

139-143 Elm Street and 26 Pine Street Preliminary Subdivision Plan:

Ms. Duff opened the public meeting on 139-143 Elm Street and 26 Pine Street, a preliminary subdivision plan. Mr. Materazzo noted that the applicant has requested the meeting be continued without discussion as the Board does not have a quorum of its voting members this evening.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the public meeting without discussion on the Preliminary Subdivision Plan 139-143 Elm Street and 26 Pine Street to April 28, 2014 at 7:45 p.m. and to allow for the deadline for a decision by the Board to be extended to May 27, 2015. **Vote:** Unanimous (4-0).

Other Business:**Town Charter Articles**

Mr. Materazzo informed the Board that per the Town Charter they need to take a position on Article P-65 School Site Improvements Borrowing Repurpose and P-68 Andover High School Track Replacement, and he suggested that they take no action on these articles.

On a motion by Ms. Knowles seconded by Mr. Pouliot that Board moved to take no action on Town Meeting Articles P-65 and P-68. **Vote:** Unanimous (4-0).

Article P-62 89-93 Main Street Outdoor Restaurant Seating:

Mr. Materazzo noted that the proponent for this article is not present. Mr. Pouliot stated that if the proponent cannot be present for a meeting he should submit something in writing to the Board explaining his article. He added that without the other Board members present tonight the Board should wait to discuss this article.

Adjournment: The meeting was adjourned at 8:46 p.m.