



Office of  
**THE PLANNING BOARD**  
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**RECEIVED**  
 DEC 15 2022  
 TOWN OF TOWNSEND  
 TOWN CLERK

Laura Shifrin, Chair  
 Carol Hoffses, Member

Robert Therrien, Clerk

Mike Virostko, Vice Chair  
 Ian Ortiz Santiago, Member

## PLANNING BOARD MEETING MINUTES

November 16, 2022, at 6:30 PM

Remote only via TCAM hosted ZOOM

All are invited to attend  
 Join Zoom Meeting

Meeting ID: **873 3202 2996** Passcode: **789656**

### 1 **PRELIMINARIES:** votes may be taken.

- 1.1 Call the meeting to order and roll call. Chair Shifrin called the meeting to order at 6:30pm. Roll call was taken. Present: Carol Hoffses, Robert Therrien, Laura Shifrin. Members absent: Michael Virostko, Ian Ortiz Santiago.
- 1.2 Recital of The Pledge of Allegiance of the United States. recited with expressed gratitude to our veterans and military in service.
- 1.3 Announce meeting is being recorded. Noted.
- 1.4 Chairman's Additions/Deletions to Agenda unforeseen prior to 48 hours of this meeting. None.

The Board reviewed the proposed Draft amendments and to Townsend Zoning Bylaw (TZB) 145-54.1 and 145-42 and version 2 of the Warrant article for Townsend Zoning Bylaw (TZB) 145-54.1 Age restricted development. Carol Hoffses remarked that the height of the buildings should be consistent with the current Zoning Bylaw. This change can be incorporated. C. Hoffses also asked about the percentages of the open space which was discussed at the previous public hearing. R. Therrien asked about the parking requirements in the bylaw and suggested shared parking spaces. He asked for more information on how this could be adapted to a mixed-use development project and further commented that the parking requirements would be adapted

to “shared spaces” for all users in the facility. The Board reviewed the proposed changes to 145-42 Site plan review special permit.

## **2 PUBLIC HEARINGS: votes may be taken.**

- 2.1 **6:45 pm. Public Hearing** - In accordance with the provisions of M.G.L. Chapter 40A §§ 5 and 11, the Townsend Planning Board will hold a virtual public hearing on November 16, 2022, at 6:45 PM to review two proposed amendments to the Townsend Zoning Bylaw, being Chapter 145 of the Town Code, Article IX, entitled “special provisions”, Section 54.1 entitled “Age-restricted development” and Section 42 entitled “Site Plan Review Special Permit”.

Chair Shifrin opened the public hearing by reading the legal notice.

Present for the Planning Board: Laura Shifrin, Carol Hoffses, Robert Therrien

Others present: Veronica Kell, Todd Melanson, Board of Water Commissioners, Adam Costa, Town Counsel, Cindy King, Ryan Clemmens, Town Counsel. Beth Faxon, Planning Board Administrative Assistant.

The redline draft proposed amendment to 145-54.1 age restricted development bylaw (ARD Bylaw) document was screen shared for viewing. The changes made after the first public hearing on this proposed amendment were: Section B. Applicability (1) (a) Where in the word “Two” was stricken and replaced with the word “One” in reference to acreage.

Section C. (8) waivers where the wording “provided that the Planning Board also finds that the reduction, alteration or waiver would advance the purpose of this section and further of the public interest.” was added to the end of the sentence.

The Chair announced that these changes were made after the public hearing on October 24, 2022, in response to comments made during the hearing. The changes were implemented by Town Counsel. A second public hearing was publicly noticed and published for today with consideration of the significant change to the eligibility section whereby the required acreage was reduced from two acres to one acre for this bylaw. The Chair commented that there was discussion that the maximum building height in the age restricted development bylaw would be changed to 35’ for consistency with the current Zoning Bylaw.

V. Kell asked the Board why these amendments are being proposed when the ARD Bylaw was just put into effect a little over a year ago. Chair Shifrin responded that Bylaws are living documents and the date of passage is irrelevant when a need is brought to the attention of the Planning Board or the Board finds a need while implementing the Bylaw. A statutory process is followed to propose those amendments. Chair Shifrin further noted that the Housing Production Plan identifies zoning practices that could be achieved through Bylaw amendments that would be conducive to creating more housing and development. The two-acre eligibility criteria in the current ARD Bylaw are considered too restrictive and may be dissuading developers from applying under the Bylaw. V. Kell then asked if the eligibility criteria were reduced to one acre, and all other criteria are met, can a property owner redevelop their property under this Bylaw. She asked about the possibility of a property owner with 200 ft. of frontage subdivide their property to redevelop creating multiple units under this Bylaw. Chair Shifrin said that there are many possibilities that could come before the Planning Board and that the intent is to encourage development to create more much needed housing. V. Kell asked for clarification that units created under this Bylaw are going to be sold at market rate and are residential units for individuals over 55. Chair

Shifrin affirmed both. V. Kell asked how the monitoring of residents being 55 and over years of age will be implemented under this Bylaw. Chair Shifrin noted that as the Bylaw was implemented with a new project, that would develop pursuant to existing laws and regulations. V. Kell asked if the Planning Board studied parcels and considered the feasibility of creating an overlay district for 55 and over housing. She commented that if the amendments in this proposal were to include the reduction in lot size and the waiver clause, she would prefer that the Town would take a step back and look at where in Town is best suited for ARD housing. She expressed concern that these proposed amendments might result in too many apartments or condominiums on smaller lots with insufficient monitoring in Town. She is concerned that every design standard and eligibility criteria in the Bylaw can be waived per this proposed amendment. She recommends more understanding of which type of housing is most beneficial to the Town and collaborative efforts with the Housing Authority, the Affordable Housing trust and other groups of interest.

Todd Melanson expressed the following concern and suggestions regarding the reduction in lot size from two to one acre under the eligibility section and the proposed amendments: He submitted an email to the Board which he read aloud during the public hearing. He alerted them to the following important information that concentrated septic systems are causing the spread of contaminants in the aquifer with PFAS contaminants being the primary concern. He suggested excluding areas in the ARD Bylaw revision that contribute to the Town's municipal Water Resources such as the Zone II Wellhead Protection areas, and the defined areas with high to medium yield aquifers within the Town, especially anything upstream from these areas. He also suggested that the Town should be looking at any Stormwater runoff impacts to the Municipal water resources, especially upstream areas, as a result of implementation of this Bylaw. These actions would be reasonable steps to take to best protect the drinking water resources of the community. He provided a map with his email which illustrated the Zone II wellhead Protection areas and the high and medium aquifers for planning. Chair Shifrin was appreciative of Mr. Melanson's comments and noted that no discussion of these points was had at the previous public hearing.

Cindy King spoke in strong support of creating more housing availability and commended the work of the Board to help increase the amount of housing. She noted that the Town is lacking both affordable apartments and residential units as well as 55 and over housing. She acknowledged the importance of the contaminants issue and the potential concentrated septic system issues and mentioned that the future growth of the Town might include a sewerage treatment plant. She stressed the need for change to support development of housing in Townsend.

Board Member Rober Therrien mentioned that many concerns were raised by participants. He noted that is challenging to guess what Applicant's may propose under this bylaw. He noted that the intention of these proposed amendments is to modify an existing bylaw that already is having some difficulties as it is being implemented.

Board Member Carol Hoffses commented that aquifer protection from improper development is a very important consideration in this process of amending the bylaw. She also commented that there is no specific language in the current Bylaw addressing enforcement of the requirement that residents must be 55 years of age or older. She said that Westford MA has language in their ARD bylaw that has the restriction covenant governing the residents of the development. Chair Shifrin stated that there are laws that govern any 55 and over development that is created. Townsend does not have such a development, but they are in surrounding Towns.



Town counsel recalled that the Planning Board had discussions regarding whether to include a deed restriction or equivalent to ensure that these properties would remain age restricted in early versions of the Townsends Draft ARD Bylaw. The discussion included cautionary comments from Town counsel related to restrictions associated with federal and state programs that occur when adopting verbiage to a local ARD Bylaw. At that time, the Board decided to make it an express requirement of the ARD zoning bylaw and subsequently a requirement of the special permit that is issued by the Planning Board. It is enforceable as any other sort of zoning bylaw by the Zoning Enforcement Agent for the Town. Chair Shifrin asked if wording could be added to this proposed amendment and, after hearing the response from Town counsel did not express strong support to enact this idea.

Chair Shifrin then asked about the feasibility of including restrictions to protect town water resources as suggested by Mr. Melanson in this version of the proposed amendment. Town Counsel then noted in Section B. Applicability a special permit can be issued for a project in any of the six zoning districts referenced there. If properties are going to be excluded from the Applicability section, they need to be defined with specificity and delineated on a plan of reference. These properties are where these particular special permits would be prohibited effectively in the named zoning districts which would otherwise be eligible for a special permit under Section 145-54.1 (B) (1).

He further stated that the process is either identifying zoning districts as is the case with the current bylaw or looking at an overlay district as was suggested during this public hearing. The overlay district seemed to be in a favorable direction. Town counsel then spoke to the Board Members about the process of this proposed amendment and what they were willing to change at this point. The two changes he mentioned were the deed restriction and adding wording to eliminate eligibility of properties in sensitive water resource areas. He also asked if these changes were added at this point, would there be enough support for the amendment at Town meeting.

He recommended postponing action if multiple changes are going to be made through the public hearing process that the document is substantially different. He recommended that the Board continue to work on it in the ensuing six months and bring it back to a future meeting.

Robert Therrien made a motion that the Planning Board does not go forward with this iteration noting it is not comprehensive enough and there will be a better opportunity to accomplish more using an overlay district. This may not be supported at Town meeting. The iteration doesn't address all the needs of the community. The motion is to refrain from moving this forward and remove it from the Special Town meeting agenda. C. Hoffses seconded the motion. A roll call vote was taken as follows: YES – C. Hoffses, R. Therrien, ABS – L. Shifrin. The motion passed. 2-0-1.

The redline draft proposed amendment to Townsend Zoning Bylaw 145-42 site plan review special permit document was screen shared for viewing. The proposed changes were each announced and pointed to in the document. After reviewing the proposed changes R. Therrien commented that the changes are positive ones, and he supports them. C. Hoffses also proclaimed her support for the proposed changes. L. Shifrin stated her support for the changes. No public comment was offered. No written comments were received. R. Therrien made a motion to move the proposed amendments to the Special Town meeting. C. Hoffses seconded the motion. A roll call vote was taken as follows: C. Hoffses, R. Therrien, L. Shifrin. The motion passed unanimously. C. Hoffses made a motion to close the public hearing at 7:35pm. R. Therrien seconded the motion. A roll call vote was taken as follows; YES – R. Therrien, C. Hoffses, L. Shifrin.

The Board then discussed the required draft of the Planning Board report to Town meeting. The admin will create a draft and circulate to the Board Members. The Board came up with the following

reasons it has moved to submit these proposed amendments to 145-42 site plan review special permit to special town meeting:

- The Planning Board has been reviewing Planning Board rules and regulations, and applicable bylaws as part of a comprehensive review during its regularly scheduled meetings.
- These amendments proposed are formulated during the process of overall bylaw, regulations and policy review by the Planning Board.

Town counsel then advised the Board that they then should prepare their remarks for Town meeting. Robert Therrien volunteered to read the Planning Board report and make the presentation at Town meeting. R. Therrien made a motion to adjourn the meeting at 7:52pm. C. Hoffses seconded the motion. A roll call vote was taken as follows; YES – R. Therrien, C. Hoffses, L. Shiffrin.

### **3 ADJOURN: votes may be taken**

#### **Items on file:**

1. Townsend Zoning Bylaw proposed amendments to §145-54.1 Age restricted development
2. Townsend Zoning Bylaw proposed amendments to §145-42 site plan review special permit.

Submitted by:  
Elizabeth Faxon

Approved on: December 12, 2022

Planning Board Administrative Assistant

