



Planning Board
Meeting Minutes of August 1, 2022

Board Members:

Present: Albert Patenaude, Jr. (Chair), Casey Campetti, Joyce Morrow, David Ganong (Clerk), Joan Ladik, Tiffany James (attendance verbally confirmed by each member)

Staff: Jenny Gingras (Town Planner), Cheryl Lutcza

Attendees: Gerald Couper (PCM), various members of the public and Town staff/officials.

1. Call To Order:

6:12P.M. The remote public meeting (recorded for future broadcast by Pepperell Community Media) was called to order by Mr. Patenaude. Mr. Patenaude said that the meeting is being conducted remotely and via a hybrid format. The meeting materials will be provided on screen and are available to the public via the Planning Department webpage. He said this is a continuation of last week's meeting/hearing. The focus tonight is Board deliberations. The chat feature on GoTo meeting will not be utilized this evening, as no public comments will be taken.

Mr. Patenaude stated that he had watched the recording of the July 27, 2022 meeting with regards to the following matter.

2. 6:00P.M.: Public Hearing Continuation: Consider a Proposed 40R Smart Growth Zoning District and the Submission of an Application for Preliminary Determination of Eligibility for 40R Zoning (Board deliberation only, no public comment):

Pursuant to Chapter 40R of the Massachusetts General Laws, and the associated regulations, specifically 760 CMR 59.05(1), the Planning Board will hold a public hearing on Thursday, July 21, 2022 at 7:00 PM to consider a proposed Smart Growth Zoning District and to consider the Board's submission of an Application for Preliminary Determination of Eligibility for 40R Zoning to the Massachusetts Department of Housing and Community Development. The proponent of this district is the Town of Pepperell. The properties to be affected by the creation of this District is comprised of properties at: 59 Groton Street (Assessor's ID 26-71-0), 1 Hotel Place (Assessor's ID 26-93-0), 3 Hotel Place (Assessor's ID 26-96-0), 4 Hotel Place (Assessor's ID 26-97-0), 4A Hotel Place (Assessor's ID 26-106-0), 5 Hotel Place (Assessor's ID 26-95-0), 6 Hotel Place (Assessor's ID 26-90-0), 59 Leighton Street (Assessor's ID 29-158-1), 59A Leighton Street (Assessor's ID 29-187-0), 41A Lowell Road (31-18-0), 37 Nashua Road (Assessor's ID

25-22-1), 45 Main Street (Assessor's ID 23-147-0), 45A Main Street (20-48-0), 5 River Road (Assessor's Parcel ID 23-150-0), 23 Mill St (Assessor's ID 26-206-0), and 128 Main Street (Assessor's ID 26-32-0). Please see the Calendar on the Town of Pepperell Homepage (posted 48 hours prior to the Public Hearing) for a link to access this remote meeting from your phone or computer. A copy of the draft application, plans, and other materials are available for review at the Town Clerk's office or the Planning Board Office at Town Hall, 1 Main Street, Pepperell, MA during normal business hours or on the website at <https://town.pepperell.ma.us/424/Zoning-Articles>. Persons unable to attend may submit comments in writing to the Pepperell Planning Board by Friday, July 15, 2022.

Mr. Patenaude asked Ms. Gingras if any additional public comments were received. Ms. Gingras said there were not. Mr. Patenaude asked if the Board received any comments from Chris Hayes (NMCOG). Ms. Gingras said that a letter had been received from him. She said that there is more to the process and if something is sent to DHCD for review, there could still be additional input from the Town. Discussion ensued. Ms. Gingras said that 40R keeps the local WRPOD and wetlands bylaw intact, however with 40B, a developer could get waivers. With 40R we keep those controls, and the Town's regulations are more restrictive than the States. Discussion ensued.

Mr. Patenaude asked Ms. Morrow if she had any specific items of concern regarding the 40R proposal. Ms. Morrow said that she would like to see more of a dialogue with Conservation to make sure we have hit upon all of the various issues that have been raised by the public and Planning Board concerns. We also need to sit down with the Town Engineer, Ken Kalinowski, to see what the issues actually are with the water. She asked if Ted Brovitz could provide us with some sort of rendering that might not have as much asphalt, so if we decide to go with the 40R, we could ask the builder to put the parking under the buildings to limit the amount of asphalt. We would hopefully have more carbon-related pluses as far as putting in more trees.

Mx. Campetti said a lot of her concerns, as well as concerns heard from the public via hearings and correspondence, particularly about water quality protection and environmental concerns are things she is really concerned about. Mr. Hayes made a distinction between 40B and 40R, with the 40R process we really have a more transparent process that provides clarity and that is the driving point for me. I do have concerns with some of the language and the way this bylaw is going to define gross buildable area, would it behoove us to be more specific, i.e., what measure of flood plain (FEMA designation); some of the language around wording for habitat. There are a couple of places where it might not be appropriate to have a definition up front, but we might want to have some language that goes back to our guidelines. How are we going to define "significant trees", and how will we tie that in to what we will require for vegetation and the loss of that. Not losing trees over a certain value/diameter (native trees, etc.). Something else is clarity around waivers. It is important to have some discretion and flexibility. We can't anticipate every scenario, and we can't bylaw ourselves into a corner. There is a lot of anxiety surrounding the Planning Board's ability to waive the development percentage requirement in the WRPOD, that's worth talking about. She said she would like to get a better understanding about extraordinary adverse impacts which seems to be the threshold for requiring mitigation, and might outline positive and negatives. Understanding what we can insist on is important. I'm supporting this now to keep the conversation going.

Ms. Morrow added that she would like to find out if 40R were to go through, with the monies that would be coming from the State is there a way we can have a fund dedicated to receiving that money that could cover infrastructure costs, if it is needed. With the 40R could there be different types of housing within the same project, which would help with multi-generational housing and could 40R help provide that. Mr. Patenaude said that he would like some clarity to understand what Ms. Morrow means regarding multi-

generational development. 40B/40R can both deal with multi-generational designs, but unless it's brought forth by a town under an RFP, it is based on a developer himself. There are controls within the 40R/40B regarding meeting the 80 percent. Ms. Morrow said that when thinking of a multi-generational home, we think of an add-on accessory building to a residential home. To be able to have a one-bedroom, single-family home for an aging parent near a regular single family home in a 40R development. Mr. Patenaude said that with a 40B or 40R, any units that are affordable have to be in kind and intermixed within the project without being discernable from the market rate units. The only other direction we could go, as we cannot mandate age restriction, is modify our chart that could potentially allow for senior living. That is a question we could pass along to Pepperell Housing Authority. Discussion ensued. Ms. Morrow said there is a large waiting list and there is a void in this Town and we really need to consider this in our deliberation. Mr. Patenaude said the Housing Authority currently has over 5000 applicants on the waiting list. Ms. Morrow said should we consider reevaluating the sites and making it a shorter list for sites to be designated for 40R.

Ms. Gingras said she spoke to the Town Administration, and they discussed the incentive payments to be earmarked to address water and environmental concerns that have been brought up. We could potentially ask, but this would need to go through the Select Board and Finance Committee. Ms. Morrow asked if that money would go into an independent fund, not the enterprise fund. Ms. Gingras said it would not go into the enterprise fund. Discussion ensued.

Ms. Ladik said that she agreed with Mx. Campetti's statements. Ms. Ladik said she is in favor of 40R because of the control aspect, which we would not have with 40B. She said she isn't against any of the parcels chosen. She would like to see 40R accepted, and then work slowly with the site plans that are submitted and we can do a lot of monitoring. She said that she would hope that the construction that is done is a variety of different construction techniques that would allow us to use land that is near the floodplain or near water, and maybe we could have houses that are higher with garages underneath in those cases. She said that no one in an official capacity has come forward and said the properties we have chosen are absolutely, positively not buildable properties and have they had a chance to go out there. Mr. Patenaude said Ms. Terrasi has probably been out to all of the properties. Ms. Ladik said everything we've heard is just conjecture at this point. Discussion ensued regarding only the Leighton Street property has a proposal to build on it.

Mr. Ganong said that he is in agreement with what he has heard so far from other Board Members. Building codes are left intentionally grey for some areas to allow Boards to make some decision without having their hands completely tied. We do reference our Design Guidelines/requirements and that is where I would like to put my energy. The design requirements provide control under 40R, but not 40B. He is interested in trying to help address the Climate Change Council's concerns. I would like to build in best practices for stormwater control, runoff, and parking. We could give a range of the levels we are looking for. One of the items in the design requirements could be for irrigation and maybe it not being pulled from town water, but rather from runoff, the developer would need to address this. I think there are many avenues that we can help address with conservation and climate change concerns and build in controls. It could cost a developer more, but it would be for the long-term performance of a property. This could help address some of the fears of the committees.

Ms. Ladik asked if the bylaw could be more broad-based, but the guidelines have more specifications and standards. Discussion ensued regarding design guidelines and drawing up reasonable guidelines.

Ms. James said that she also supports 40R. One of her concerns is the amount of development, but she understands that it doesn't have to be housing, it can be a business in a 40R District. Mr. Patenaude said the underlying takes precedence, and 40R is an overlay of that. If you are in commercial, you can still do

commercial underneath. Ms. James said that 40R would encourage walkability and may help with the environment with less car driving. It goes through more channels than just the Planning Board saying yes. Her thoughts pretty much echo the other Board Members.

Ms. Gingras said that with 40R, a developer could do a mixed-use development, i.e., at the Mill site. Leighton Street could only be a residential project. Mr. Patenaude said that this would allow us to control density more than mixed-use, as it is written now. Discussion ensued on flood plain, and businesses potentially having parking underneath.

Mr. Patenaude said that he listened to the entire recording from July 27, 2022, and the items that seemed to pop out consistently were site locations, as identified at the moment; density, as outlined in our existing zoning article; some of the procedures set forth and how we leave it open enough for this Board, or future Boards to make adjustments, as needed. We don't want to leave it wide open, however having flexibility is critical, because we cannot ever imagine all of the potential design concepts that will come in. If we tighten our regulations up too much it wouldn't allow us to adjust accordingly. We do need to allow some flexibility. He said that a lot of people have concerns with lack of protections for the wetlands and the WRPOD. He said this isn't coming just from residents, this is also coming from people I respect and consider knowledgeable in their field. This specifically calls out the details of how the 40R sets controls and allows us as a Town to keep our present controls over the State guidelines that are less stringent. While I understand that some, if not all the sites, are not desirable to be built on, they are private properties that can be allowed to be developed. The Planning Board, by its own acknowledgement, has to follow the rules and regulations allowable under the local and state regulations. It is confusing to me when other Boards are making comments above and beyond what the local and state regulations allow. There are many steps that need to be followed to get this to Town Meeting. I am hopeful that we are able to get this moved in the proper direction, and that is not because I believe that 40R or 40B are the answer to everything. I believe personally that the 40R puts us, as a Town, in control of how and what is developed. The Leighton Street project is something that is presented to us that we are going to have to deal with. The developer has stated that if 40R does not come to fruition and pass Town Fall Meeting, he is not willing to wait until spring. The developer does have a history with 40B's and understands rules and regulations, and has a good engineering firm and 40B attorney working for him. I feel that as a Board, we have to do our due diligence to work with and create the regulations and design regulations. Is this going to be perfect, no, and there is always something that hasn't been thought of. As a Town, as we saw at our last Town Meeting, we had to see people that are conservation-minded fight to get money to put in to conserve land in the future.

Mr. Patenaude said he had gone through the SGOD again and he went through the sections of the proposed bylaw and asked if the Board Members had any questions or comments.

Mr. Patenaude read, and spoke on, various comments and letters from the following, and discussions ensued among Board Members:

- DPW Director
- Agricultural Commission
- Climate Change Committee
- Conservation Commission
- Affordable Housing Committee
- Council on Aging

Mr. Patenaude asked each Board Member their thoughts on which sites should be included or left off of the 40R site list.

Mr. Ganong said he would like to see the Peter Fitz property and the Senior Center property stay on the list for 40R sites. He said that he would agree with removing Hotel Place and the Mill Site. He said that the Leighton Street property is going to get developed, one way or the other, as a 40R or a 40B. Discussion ensued. He said that he is open to discussion on any of the properties.

Ms. Ladik said she would like to see the Senior Center property, Peter Fitz, and Leighton Street stay on the list. She would like to see something done with the Mill Site. Hotel Place can come off.

Ms. Morrow said if properties are on the list, it doesn't mean that they will get developed. She said the Board needs to be diligent as to which sites they identify. As for Hotel Place, the owner has been holding onto the property and has said he is in no rush in developing the property, so she would be fine with taking Hotel Place off the list. She agrees Leighton Street will be developed one way or another. The Senior Center parcel needs to stay on. As for the others, we would need to look at each one individually (Peter Fitz and Mill Site). We need to give this a good deal of thought, if 40R is passed, we have to go through the whole process of putting them back on. Mr. Ganong said that by taking some of the sites off, it would take the theocratics out of the picture, and hopefully that would get the "proposed" bylaw passed. Ms. Morrow said she agreed with that rationale.

Mx. Campetti said that properties need to earn their place on the list, not have a rationale for being taken off. She has been a little concerned over some of the comments we have received over the selection process. Looking at the process other towns have gone through adopting 40R, it's more the norm to start with just a site or two. She said she would be in favor of just sticking with Leighton Street, as it is a protective measure, and the Senior Center parcel.

Ms. James said that she would like to see the following sites stay on the list: Hotel Place, Leighton Street and the Senior Center site.

Ms. Morrow said that she thought that the Mill Site coming off the 40R list would make sense. Discussion ensued.

Ms. Gingras said she wanted to remind the Board that we are also looking at a Town Center based proposal, which will probably be on Spring Town Meeting. All of the sites we've talked about are also included in that proposal and are mixed-use. There would still be opportunities for the Peter Fitz, Hotel Place and the Mill Site parcels, we just wouldn't receive incentive payments, as we would under 40R. Discussion ensued. Ms. Gingras said that hearing everybody's comments, she agrees with starting small, with two sites. The Leighton Street and Senior Center parcels are two major sites and there is no reason not to consider them.

Discussions ensued among Board Members.

Mr. Ganong made a motion to reduce the number of sites and move forward with the Leighton Street site and Senior Center parcel site, seconded by Ms. Ladik.

Roll Call Vote Take as Follows:

Mr. Campetti:	Aye
Ms. Morrow:	Aye
Ms. Ladik:	Aye
Mr. Ganong:	Aye
Mr. Patenaude:	Aye

Discussion ensued on percentage of affordable units.

Mr. Ganong made a motion to amend the percentages to 20% at 80 and add 5% at 60. Seconded by Ms. Ladik.

Roll Call Vote Take as Follows:

Mx. Campetti:	Aye
Ms. Morrow:	Aye
Ms. Ladik:	Aye
Mr. Ganong:	Aye
Mr. Patenaude:	Aye

Discussion ensued regarding density table.

Mr. Ganong made a motion to move the SGOD Section 9000, as amended, to DHCD for preliminary review and approval. Seconded by Ms. Ladik.

Roll Call Vote Take as Follows:

Mx. Campetti:	Aye
Ms. Morrow:	Aye
Ms. Ladik:	Aye
Mr. Ganong:	Aye
Mr. Patenaude:	Aye

3. Reports/Correspondence/Discussion: *(Matters may arise that the Chair did not reasonably anticipate)*

a. Staff Updates: None

4. Future Meetings:

- August 15, 2022

5. Adjournment:

Mr. Patenaude asked for a motion to adjourn the meeting. So moved by Mr. Ganong, seconded by Ms. Ladik. All in favor. Meeting adjourned at 9:34p.m.

Planning Board Meeting Minutes of August 1, 2022, respectfully submitted by Cheryl Lutzka