

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

John R. Bethoney, Chair
Michael A. Podolski, Esq., Vice Chair
James E. O'Brien IV, Member
Jessica L. Porter, Member
James McGrail, Esq., Member



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Jeremy Rosenberger
Planning Director

PLANNING BOARD
MEETING MINUTES

January 24, 2019, 7 p.m., Lower Conference Room

Present: John R. Bethoney, Chair
Michael A. Podolski, Vice Chair
Robert D. Aldous, Clerk
James E. O'Brien IV
Jessica L. Porter

Staff: Eve Tapper, Interim Town Planner
Jennifer Doherty, Administrative Assistant

The Pledge of Allegiance was recited. Plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office.

Applicant: Town of Dedham/Public Safety Building
Project Address: 26 Bryant Street, Dedham, MA
Zoning District: Central Business
Representative: James Kern, Town Manager
Town Consultant: Steven Findlen, Senior Project Manager, McMahon Associates

Mr. Kern requested that the Board continue this meeting until 2/12/19 to allow the design team and the peer reviewer sufficient time to review the submitted material. There are a series of meetings scheduled in the interim to ensure that the process goes smoothly. Mr. Findlen is in the process of reviewing site plan information but has not received the traffic study; this will be reviewed on 2/28/19.

Mr. Podolski asked whether it is likely that the applicant will be ready on 2/12/19. Mr. Findlen said they have a working session scheduled for 1/30/19, at which time they hope to flesh out the issues and allow the applicant to make revisions as requested for the meeting on 2/12/19. If anything comes up that does not allow them to meet, he will inform the Board.

Mr. Aldous moved to continue the Public Hearing to 7 p.m., Tuesday, 2/12/19, seconded by Ms. Porter, and all agreed. Everyone necessary will be informed of change.

Applicant: Town of Dedham/ECEC

- Project Address:** 1100 High Street, Dedham, MA
Zoning District: Single Residence A
Representative(s):
- David Roberts, Chair, Finance and Warrant Committee
 - Mike Williams, AIA, KBA Architects, 6 Thirteenth Street, Charlestown, MA 02129
 - Daniel Bradford, AIA, KBA Architects, 6 Thirteenth Street, Charlestown, MA 02129
 - Mayanne Briggs, School Building and Rehabilitation Committee, School Committee
 - Michael Welch, Superintendent of Schools
 - Kimberly Taylor, Principal, ECEC

The applicant requested a temporary Certificate of Occupancy (COO) prior to completion of the project. Preparations need to be made prior to moving in on 2/11/19. The full school is expected to open on 2/25/19. The on-site work is substantially complete. Some items will need to be completed in the spring; these do not have a safety impact associated with occupying the building. These include:

1. Plantings to be done in the spring.
2. Finish coat on the playgrounds. There is currently a brown rubber base that provides most of the cushion.
3. Expansion joint control and control joint parking in the sidewalks. There is backer board there now, so this is just the sealant that goes on top.
4. Exterior building caulking. It is possible that this will be done before school opens.
5. Stone dust at bike racks, providing a clean surface around the racks.
6. Rake, repair, and hydroseed grass areas.
7. Artificial turf mounds at three front entrances.

Mr. Williams provided a plan to the Board that highlights the areas of planting to be done in the spring. There are three oblong areas that will be artificial turf mounds that are meant to be sitting areas for children waiting to go in or out of school. A surface will be put over these to ensure that the existing gravel will be stabilized through the winter. These issues will remain until the spring.

Completed off-site mitigation measures on High Street:

- Median islands are complete with curbing, plantings, Dedham traffic calming signs, and pavement markings.
- Lane striping on High Street identifying the turn off lane in the western direction has been done.
- The east-bound flashing speed indication sign is not operating at the moment because it is a solar powered sign and is not receiving enough sun. They are looking at options to provide normal power, either retrofitting it to receive normal power, or getting a new sign to be powered off an adjacent utility pole within 10 feet. If necessary, they will work with the contractor to get a temporary speed sign.
- All other off-site mitigation measures have been completed.

Mr. Williams said they have not performed a speed study yet. When the sign was working, people were slowing down when they saw their speed. Good comments have been received from the neighbors, but they will know better when they have the speed study. Nitsch Engineering has recommended letting school be open for at least a month to see the true traffic pattern, and then they will

perform a speed study, which will take about a week. It will take another couple of weeks to compile the information and write the report.

They want to obtain a temporary COO by 2/11/19 when they plan to move in. They requested that the Planning Board accept the existing conditions off and on site as temporary. They will return to the Board for a final COO once it is complete; they anticipate completion prior to September 2019. Building Commissioner Kenneth Cimeno said there is still work to be completed, but it has been pushed off because of weather. The architect and the contractor have assured him that the necessary portions of the project have been or will be completed so he can issue a temporary COO. He cannot say it is accurate as he has not seen the plan.

Mr. Podolski said the temporary COO should be left to Mr. Cimeno, but he needs Planning Board endorsement. If he says they are not ready by 2/11/19, he would not issue it. There are issues that need to be completed before the Building Department does the final inspection. Historically, the Board has not given long temporary COOs, so he would rather have a reasonable termination date, i.e., no later than three weeks prior to school opening. If they are not ready by then, they will need to return to the Board. He did not think the site would be a problem, although it could be if they let it go right up to the date of opening. His concern is that the top of the surfaces on the playgrounds will not be ready and asked if the children could still use them. Mr. Williams said the contractor is going to verify this with the manufacturer. The contractor will test this, as it needs to meet impact resistance requirements. Mr. Podolski said he would not allow the children to use it unless it is safe. He did not have a problem with waiting to do the landscaping or the caulking. Ms. Porter asked about the temporary speed flashing sign and what conditions would make that necessary. Mr. Williams said that if it is necessary, he will investigate having a temporary one. Mr. Bethoney said it is required on the plan. If it is not ready, it has to be on the list.

Mr. Podolski moved to allow the issuance of a temporary COO at the discretion of the Building Department. He stated the temporary COO would expire on 8/15/19. Ms. Porter seconded the motion. Ms. Tapper said that 8/15/19 is during the summer, and the Board does not meet as often during that time. She advised them to ask before the time runs out. The vote was unanimous at 5-0.

Audience: A gentleman, who did not identify himself, said the flashing sign is great, but it is needed the other way as well because cars drive fast when coming off Route 128. Mr. Podolski reminded the applicant that Director of Engineering Jason L. Mammone, P.E., will be reviewing the traffic study, and they might consider adding that additional feature.

Mr. Podolski commended the applicant on the way the project has gone, especially keeping the Board members notified. The OPM, Kevin Griffin, is doing a great job.

PUBLIC HEARING

Applicant:	Collis, LLC
Project Address:	219 Lowder Street, Dedham, MA
Zoning District:	Single Residence B
Representative(s):	<ul style="list-style-type: none">• Peter A. Zahka II, Esq., 12 School Street, Dedham, MA• Greg Carlevale, Manager, Collis, LLC• Scott Henderson, P.E., Project Engineer, Henderson Consulting Services, Lexington, MA

- John Haven, RLA, ASLA, LeBlanc Jones Landscape Architects, Inc., 535 Albany Street No 5A, Boston, MA 02118-2500
- Brian Donahue, AIA, Project Architect, 21 McGrath Highway, Quincy, MA 02169

Town Consultant: Steven Findlen, McMahon Associates

This an opening of a Public Hearing to consider a Planned Residential Development (PRD) at 219 Lowder Street for seven dwellings on a little less than 65,000 square feet. Legal notices of Public Hearing were published in *The Dedham Times* on 1/11/19 and 1/18/19, and notices were mailed to abutting towns and MAPC. Abutters were notified per mailing from the Planning Board office. Mr. Podolski moved to waive the reading of the public notice, seconded by Mr. Aldous. The vote was unanimous at 5-0. Mr. Podolski moved to open the Public Hearing, seconded by Mr. Aldous. The vote was unanimous at 5-0.

The PRD follows the procedural rules for a Definitive Subdivision plan. A full application was submitted to the Planning Board on 9/26/18, including the necessary plans and supporting documentation. Because it follows the subdivision rules, a notice was sent to the Board of Health and the Town Clerk on the same date. The project previously came before the Board in a Public Hearing (which was technically not necessary) with a comprehensive plan seeking recommendation to Town Meeting. Extensive testimony was given from abutters and others, and a super majority was overwhelmingly supportive of the project. Some peer review was given by McMahon Associates. Town Meeting approved the concept plan at the 11/16/18 Town Meeting. The article was treated as a zoning article so there was a subsequent Public Hearing by the Planning Board prior to the recommendation being made to Town Meeting. This is the final step in reviewing and approving a detailed site development plan.

The site, which is in the Single Residence B zoning district, contains 64,864 square feet of land with 276 feet of frontage on Lowder Street and 301 feet of frontage on Wampatuck Road. According to Assessor records, there is an existing single-family dwelling with a gross area of just under 9,800 square feet. The former town planner confirmed that under conventional zoning, the property would have supported five buildable lots. This establishes the baseline for going forward with a Planned Residential Development, which allows up to 1.5 times the dwelling units than under a conventional zoning. The proposal is for a single building with seven residential dwelling units. The requirement for 20% of the site being maintained as open space has been met. All units are two-bedroom units ranging between 1,750 and a little over 2,200 square feet. There are 21 parking spaces, 17 of which will be located under the building. McMahon Associates provided peer review and raised 14 issues in the initial review. The applicant responded, and there are now four issues. Changes were made as a result, including a couple of waiver requests and updating the plan to add a few more details. There is nothing substantive.

Mr. Bethoney asked Mr. Henderson to review the major differences, if any, from what the Board has already reviewed and recommended to Town Meeting. Existing conditions have been previously reviewed, and the proposed site development plan is essentially the same as that reviewed at Town Meeting. There are no major changes in layout or access, which is off Wampatuck Road. They have met with the Fire Chief, and fire truck accessibility remains the same other than widening of the access way in front of the building. Snow removal locations were shown. The condo association will prepare a site management contract, which will be provided to the Board for review. There will be totes located in the garage for trash removal; there will be either municipal pick up services or a private contract that will be submitted to the Board. There is open space along

the perimeter of the site, frontage on Lowder Street, and the abutting property lines in the north, east, and south corners. There will be 21% open space, which has not changed.

The landscape plan is generally the same. The existing vegetation buffer will remain and contribute to screening. The second layer of screening will have 48 evergreen and deciduous trees with a minimum height of 10 feet surrounding the property. The important areas for screening are (1) between Wampanoag Road and the guest parking spaces, (2) between Lowder Street and the building where there will be groupings of evergreens, although not necessarily a wall, but to contribute to the vegetation along the road, (3) along the north and east to create a buffer between the site and the abutting properties, and (4) along the driveway leading to the garage where there will be groupings of evergreens to act as screening between abutting properties to the north and east.

A waiver for the 10 foot trees will be requested; the ZBL requires 12 foot height minimum for trees. They have identified where they can plant larger trees. They propose 10 foot trees because larger trees have larger root balls, and planting next to a larger tree requires more root disturbance. The canopy of the existing trees causes varying sun/shade conditions that would not happen in an open or cleared site. Smaller trees can adapt over time to the varying light conditions. The design calls for an additional 17 trees that would be below the 10 foot height threshold. These would be native noninvasive species planted throughout the site. The interior pedestrian length between the front parking and Lowder Street has been maintained as noted previously.

There are really no substantial differences in the architecture. Some of the finish materials on the exterior have been clarified. The body of the building will have red cedar shingles and a dark gray architectural shingle on the roof. There will be a green palate with classic shingle style. The base in strategic areas is a grayish stone. Layouts, height of the ridge line, and square footage are the same as previously shown. Please see the plans in the Planning Office for the actual rendering.

Waivers Requested

1. Depth of parking spaces in the underground garage. The ZBL requires 19 feet; they are asking for a waiver for 18 feet. The parking bylaw for the most part applies to commercial property. This area is not open to the public, and most of the parking will be dedicated to the owners. They will be able to maintain 24 foot aisle width with 18 foot spaces.
2. Minimum tree height. They are trying to save as much existing vegetation as possible, and there would be a conflict if the trees were 12 feet.
3. On-site sidewalk and pedestrian walkway. They propose a width of four feet. The ZBL does not address sidewalk widths; this is addressed in the Subdivision Rules and Regulations. The proposed sidewalk and pedestrian ways are internal to the site and are for those who live on the site or their guests. The four-foot width satisfies the Architectural Access Board requirements of four feet or greater. The walkways do not lead to a handicapped parking space since it is in the underground garage.
4. Site plan scale requirement. Instead of 1"= 40 feet, the applicant submitted 1"= 20 feet, which allows the plan to be more easily read.

The applicant went to the ZBA for Special Permits.

1. Wall height, which relates to having to go underground. The site plan shows a curve to the driveway as it goes underground; as it goes deeper, walls are required. The ZBL says that any walls over four feet require a Special Permit from the ZBA. This was granted.

2. Aquifer Protection Overlay District. The ZBL says that there can be 25% impervious surface as of right, but anything above that requires a Special Permit from the ZBA. As presented, with the four-foot sidewalks, patios, and walkways being permeable, they still have 27%. This was granted. Mr. Zahka said this bylaw should be changed in the future, and discussed this briefly.

The applicant believes that the entire project, other than these issues, complies with the Zoning Bylaw. The outstanding waivers from McMahan's review were addressed. Mr. Findlen performed peer review of the project on behalf of the Planning Board. This peer review was paid for by the applicant. Issues related to the project were identified and reported to the Board.

The conceptual plans submitted to Town Meeting and the plans provided at this meeting were reviewed. The biggest issue between the two sets of plans was taking the conceptual plans into final design. Additional details, including more dimensions and things that would be submitted to a contractor to build, were provided and compared to the ZBL requirements. There were originally 14 issues, two of which will be handled by waivers, and two will be satisfied through the final revision of the site plan. The applicant has been working closely with Mr. Findlen to resolve these. There are now four issues:

1. Parking. A waiver will be requested for the handicapped parking in the basement. This satisfies Mr. Findlen's concern.
2. Sidewalk. Mr. Zahka is correct that the Rules and Regulations state that this should be a minimum of five feet, but the Architectural Access Board only requires 48." They will request a waiver for this.
3. Handicapped spaces. Mr. Findlen asked that the handicapped space be at the entrance to the building because it was not shown on the plans. The applicant said there will be access to a handicapped space in the basement. They have been asked to put in additional signage for handicapped drivers. He has not seen the revised plan yet.
4. Snow storage removal. There was a note on the plan that someone would come in to remove it. Mr. Findlen would like more specific information either on the plans or a separate document that will clearly state that this will happen. This will be added to the plans.

Mr. Henderson received the most recent review this morning and did not have a chance to change the plans. The plans now state "Private snow removal service shall be contracted by the condominium association to provide snow management services." Mr. Findlen said they should elaborate on this and state that the contract shall be submitted to the Board for review. Mr. Bethoney said this will be noted in the Certificate of Action and should be duly noted on the plan.

The other issue was handicapped parking in the basement that will be accessible for guests. Mr. Henderson said a note has been put on the plan that there is a sign saying "Handicapped Parking is Available in the Garage" upon entering the site, but he does not have detail on the sign. Mr. Bethoney wondered if there would be an issue if one of the residents was handicapped and used this space consistently, and a visitor was handicapped as well. Mr. Henderson said that one handicapped space is required, and is located near the elevator at the base of the garage.

Mr. Podolski said he has no problem with either the landscape proposal or the waiver request for the sidewalk since it is private property. The private parking garage will have the required aisle width. Mr. Aldous asked how high the building will be. Mr. Henderson said 33 feet. Mr. O'Brien asked if they could take pictures of the house for historical purposes before it is demolished. Mr. Carlevale said he plans to provide the original set of construction blueprints, scanned copy, and

photographs to the Historical Society. Ms. Porter asked if they would install electrical charging units in the basement. Mr. Carlevale said they would make provisions for that and for the cost to be charged back to the residents. Mr. Bethoney said that there will be requirements for electric vehicle chargers in parking lots, both private and commercial, in the Zoning Bylaw in the near future. Ms. Porter asked what it would take to make any of the surface parking spaces handicapped accessible. Mr. Henderson said in terms of grading, the ADA compliant walkway from the entrance to the curb cut is very close to Space #4. Parallel handicapped parking spaces create an awkward situation for loading and unloading. The space needs to be at least five feet wide, and loading should preferably be on the right side of the vehicle, requiring the space to be off-set from the curb. The goals for the project are to minimize the amount of parking visible from the property, and cutting into the landscape buffer works against that. In addition, lot coverage grossly increases the amount of impervious surface in the Aquifer Protection Overlay District, which would be counter to what they are trying to do. The goal is to make that area as functional as possible.

Mr. Cimeno has not looked at the handicapped space in the parking garage. He asked if it is open to the public, and if there is a door or barrier that would not allow a car to go in unless permission has been granted. Mr. Henderson said there is an automatic door that will open as it is approached. The building will be secured at the elevator. Mr. Bethoney asked the applicant how a guest would know that there is a handicapped space in the basement, that it is not being used, and whether he/she would have unimpeded access to it. Mr. Cimeno added that the handicapped space needs to be van-accessible and that the garage ceiling must be 8'2." Mr. Findlen said that both of these measures comply. Mr. Carlevale acknowledged the need for very clear signage. As a car approaches the garage, a sensor will automatically open the door. There is no gated entry on the garage. Each unit will have assigned spaces. Mr. Cimeno said the law states that handicapped parking spaces cannot be used by a non-handicapped person; the handicapped person must always have access to it, although not for exclusive use. It is not an assigned parking space. Mr. Carlevale will comply with whatever the law requires.

Mr. Zahka asked the Board to close the Public Hearing and put them on the agenda for the next meeting. He will submit a draft of the Certificate of Action for review. They will submit the final version of the plans with the additional notations that Mr. Findlen requested and the sign.

Mr. Bethoney said they would consider the waivers at the next meeting but agreed with Mr. Podolski's comments. Mr. O'Brien said the only suggestion he had was that people tend to form habits and park in the same spot. He asked Mr. Carlevale how he would deal with this. Mr. Carlevale said each unit would be assigned two spaces. Mr. Aldous and Ms. Porter had no problems.

Mr. Bethoney asked Mr. Findlen if the plan meets all regulations other than the four waiver requests. Mr. Findlen said it did. The plan delivered is safe and efficient, and they have worked toward all the regulations to the best of their ability. He did, however, say that some of the issues may seem insignificant, but if he missed something that does not comply with regulations, he will hear about it. The scale of the plan is an issue because it is noncompliant. Mr. Bethoney said this should be changed in the Zoning Bylaw, as it always seems to be requested in other applicants' waivers and seems to be the standard now.

Mr. Podolski moved to close the Public Hearing, seconded by Ms. Porter. The vote was unanimous at 5-0. The applicant will return on 2/12/19. The Board will be provided the draft Certificate of Action, and Mr. Findlen will be given a plan that has the requested additions.

The Board took a brief recess.

Release of Covenant, 19 Mariella Way (Lot 3, Antonio Estates)

Mr. Bethoney recused himself from the following discussion due to a professional relationship between the agency at which he works and the applicant. He did not participate in any of the previous meetings or discussion of the proposal. He left the meeting room and went to the Planning office.

Mr. Zahka represented the applicant. The property is part of a four-lot subdivision approved by the Board in April 2017. The binder course has been installed, and a house is under agreement. The applicant requested that 19 Mariella Way be released from the covenant, and that the Board continue to hold the covenants on the remaining three lots. The Town has been granted an easement for the sewer line, and Dedham Westwood Water District has been granted an easement for laying the pipes. The water line is in, and easements for utilities have been granted. The first house is being sold on February 1, 2019. There are three more foundations in place. Mr. Zahka said no occupancy permit can be granted if there is no water, sewer, or other utilities; it is hoped that this can be issued next week by Assistant Building Inspector Fred Johnson. The final coat of pavement is not installed because it would be ruined by trucks coming in for the other construction. They will return to the Board to request release of the covenants as the other houses are sold.

Mr. Podolski said the Board does not have anyone who physically goes to the site to look at it. Mr. Cimeno has not been out to the site recently but will go if the Board wants him to. Mr. Podolski thanked him and agreed to this, saying that he would be the Board's eyes and ears. Mr. Zahka will hold this in escrow until the Board says otherwise.

Mr. O'Brien moved to approve release of the covenant for 19 Mariella Way subject to approval by the Building Department. Ms. Porter seconded the motion. The vote was unanimous at 4-0.¹ The Board signed the covenant release,² correcting the year on the paperwork. Mr. Zahka will notarize it tomorrow.

Mr. Bethoney rejoined the Board and resumed the Chair.

DISCUSSION OF DRAFT WARRANT ARTICLE FOR PROPOSED AMENDMENTS TO THE ZONING BYLAW FOR THE UPCOMING TOWN MEETING

Ms. Tapper presented a slide show regarding draft warrant articles for the Spring Annual Town Meeting. The scope is deliberately limited because Ms. Tapper has only been serving as Interim Town Planner for a couple of months. People have spoken with her about various ideas, and she has also noticed things.

Disclaimer #1: This amendment is being considered a useful policy change, and is not designed to fix any problem that a developer had or asked for. There were two projects that came before the Board recently in which the applicant wanted to ask for waivers, but there was no way to ask for them. The proponents for those projects are not asking for this amendment, and have gone in a different direction.

¹ Mr. Bethoney had recused himself due to a professional relationship between the agency at which he works and the applicant. He was not present in the meeting room for this vote, and did not participate in any previous meetings, discussion, or votes on the project, and did not vote on the request for release of the covenant.

² Mr. Bethoney had recused himself due to a professional relationship between the agency at which he works and the applicant. He was not present in the meeting room for this vote, and did not participate in any previous meetings, discussion, or votes on the project. He did not vote on the request for release of the covenant, and did not sign the covenant release.

Disclaimer #2: This is not legal language. Language and findings were put together for Planning Board input and response. If the Board decides to move forward and sponsor it, Town Counsel, who has looked at this briefly, will write the specific language based on the Board's feedback.

Section 10.2

This concerns conversion of single family dwellings to two-family dwellings. This is allowed by Special Permit from the Zoning Board of Appeals. The Planning Board can also grant Special Permits.

Section 7.4

Mixed Use Development is a Special Permit granted by the Planning Board.

Section 7.7

This special residential regulation is for an accessory apartment that can be rented in an existing house. Unlike a two-family dwelling, the owner must live on site. The amendment would allow the Special Permit Granting Authority (SPGA) more control and oversight on the Special Permit process. There is currently no way to get a waiver in the Special Permit process, so an applicant has to go to the Zoning Board of Appeals for a variance. If it is approved and not challenged, the applicant then goes to the Planning Board to ask for the rest of the project. The Planning Board could deny the Special Permit, but it cannot weigh in on the approval, whether it should have been granted, or if it is a good use. It allows both Special Permit Granting Authorities the ability to look at the whole project and not go back and forth. It also encourages applicants to design projects compatible with the core values of the Town including:

- Eco-friendly and sustainable design
- Affordable housing.
- Housing options allowing aging in place, i.e., selling a larger home and moving into something smaller to stay in Dedham, or converting the home into an accessory dwelling unit by re-using a larger house that the residents do not actually need, thus allowing someone to stay in his/her home financially

The first step would be for the SPGA to look at a project in its entirety, weigh in on it, and perhaps approve Special Permits for the waivers, provided it believes it is a better use of the land and a better flexible design. The applicant would not have to go back and forth between the Planning Board and the Zoning Board of Appeals. This would make it easier for the SPGA to decide whether it is worth considering a waiver by determining if the applicant has designed and provided additional housing for affordability or open space. Developers would know what the Town is looking for and can design in such a way. A second goal is to provide transparency to the applicant and the developer. The SPGA has the right to approve or deny a Special Permit, so granting it is not guaranteed. It is not precedent setting if one project is approved and another is not, even though it may be identical. It is based on the pros and cons of the particular project.

Ms. Tapper tried to incorporate ideas and feedback from Planning Board members, the Building Commissioner, and residents. There currently is no way to ask for a waiver in the above-noted sections of the Zoning Bylaw; the requirements must be met. If they are, then the applicant goes to the SPGA, which can grant or not grant a Special Permit. If the requirements are not met, there is no recourse other than to request a variance from the Zoning Board of Appeals. The amendment

allows flexibility in design and creative ways to meet the requirements in spirit, if not exactly, and to provide the development with some kind of bonus to the town to mitigate impacts. It has to be shown that it can be done on the site by the requirements, and then waivers can be requested; this adds to a better design.

Town Counsel did not think all the requirements should necessarily be waived because there would be no need for a waiver at all. One of the pieces that most limits changing a single family dwelling to a two family is that only 10% more can be added to a building. This would work if there was a small house on a large lot, but not if the building and lot were small. Any waiver request must explain why it is a good use and why it would be necessary. With regard to Mixed Use Developments, it would allow a waiver of all the conditions, as they are related. Two additional requirements could be added that could be waived.

With regard to special residential regulations, most are accessory dwelling units (ADUs). The biggest impediment to these developments is the requirement that lot be conforming in size and in fact only 10% larger. The purpose of ADUs is to use an existing house to be able to afford it, or when someone wants to buy the house and rent out part of it to pay the mortgage. As stated previously, the owner must live on the property. The building would need to be in existence before the bylaw was enacted. Ms. Tapper felt that this date was arbitrary.

Ms. Tapper discussed two new sections in the Mixed Use Development (MUDs). The definition in Section 10 says that it has to be one building, and it has to be at least 10% nonresidential. This is not, however, in the main body of the bylaw, so if someone does not check the definition, this would not be known. She recommended that it be put in the main body of MUDs. The second is to clarify how to calculate nonresidential space. It was suggested that this be net space not including hallways, etc., and that the square footage should be 30%; this would allow a waiver. At the last Town Meeting, there was a desire to potentially limit the density of some of these projects. She asked for assistance with this as she has not determined the right number. This would limit the density of the building to the number of units to the size of the lot, or vary it based on the district it is in. This could be waived.

Section 7.7, Paragraph B states that the lot size has to be 110% of what is required in the district, but not 110% of what everyone else in the neighborhood is. There are probably lots that are non-conforming. This seems to be the biggest impediment to these kinds of developments. The use does not go with the land if someone wants to sell the property after an accessory dwelling unit is approved. In addition, the owner of an approved ADU has to return to the Planning Board every three years to ask for extension. She questioned whether this could perhaps be done administratively. The owner must still live there even if the property is sold. There could be exceptions, i.e., a hiatus of four months, but the owner should not be able to rent out the both sides. When the property is sold, the new owner must live there. Mr. Cimeno believes that this can still be accomplished if a lot of requirements that are impediments are removed. Someone should not add another whole house to the building. It should be the same house, but separated inside.

Mr. Cimeno, who deals with ADUs routinely, has specific interest in these changes and has provided significant input. More people are trying to find alternatives to housing, so the use is becoming more popular, but also more problematic. There are a lot of existing conditions in which there are quasi-accessory dwelling units created many decades ago prior to the adoption of the bylaw. These are coming out of the woodwork, and people want to use them. However, parts of the necessary criteria can hinder them. The SPGA is the Zoning Board of Appeals. Although the Planning Board proposes zoning amendments, it does not make decisions regarding ADUs.

The second criteria is that the lot on which an accessory dwelling unit is located must contain at least 10% greater land area than required by the dimensional regulations for its district. This is problematic because there is a lot of existing housing stock, and a lot of those are on nonconforming lots or lots that conform to the minimum requirements. Mr. Cimeno said that pulling back the criteria is reasonable in the context of the bylaw. Mr. Bethoney said that the majority of the lots in Dedham are nonconforming, so those are out the window. An applicant would need to have not only a conforming lot, but 110% above that for it to be considered. The new requirement would eliminate the lot size requirement. Those with nonconforming lots would be able to seek a Special Permit from the ZBA for an ADU if the other criteria are met.

The concept of the original bylaw was to take existing housing stock and repurpose it for accessory dwellings, i.e., putting something in the existing building without making it different from what it is. East Dedham has a lot of such buildings. ADUs would not provide the opportunity to take something down and turn it into a conforming lot for better redevelopment. It would utilize an area that had fewer constraints in building homes, resulting in crowded areas. The mill area in particular has small houses that were built very close together with no opportunity to make it a more conforming area. Mr. Cimeno cited a house in East Dedham that was in poor condition. The lot was 1.5 times larger than what is required in the zoning district for a single family dwelling. He recommended that they go to the ZBA to ask for relief to tear the house down and build a new two-family house; this had never been done before, and he believes it was granted. Mr. O'Brien is aware of an existing house that has been foreclosed and is empty. The only way a contractor will do anything with it is to get the incentive to turn it into a two-family. Ms. Tapper suggested that the boards be allowed to waive the 20% requirement.

Mr. Cimeno said that, with the agreement of the Board, he would expand upon that by allowing for demolition of the building and construction of a new one. The understanding would be that the building was pre-existing, but because of its condition, it warrants demolition and construction of something better. There have been several instances in which existing multifamily houses have been demolished and new buildings built according to the existing section of the Bylaw regarding pre-existing nonconforming buildings. This has worked out well and improved the area. With Section 7.7, he is trying to keep the focus on existing buildings to rehabilitate them and go through meaningful criteria to do that. There may be other sections of the Bylaw that could address the reconstruction aspect as an alternative to using an existing building, i.e., Section 7.2. This was discussed in more detail. The goal is to have better and more sustainable housing in Dedham, and to encourage positive changes, not preserve substandard housing stock. Ms. Tapper said that the changes she is recommending in Section 7.2 would allow someone to add on more than 20%. It does not allow demolition and rebuilding a new building as a two-family. The Board may want to add that, and it would still have to comply with lot coverage, etc. This could potentially address demolition, but right now, it at least addresses the size that could be added on. Mr. O'Brien said there is a need for this, and Mr. Cimeno's suggestion would take care of it. Mr. Cimeno said that both criteria warrant change, and suggested that the Board draft language to address those important issues. There are buildings that stay in a deficient state because of the Town's inability to grant relief and allow improvements to be made.

Mr. Cimeno's recommended changes and the reasons behind them:

Section 7.7.e:

Current: *The building in which the proposed dwelling unit is to be located existed on the date of the adoption of this subsection of the Bylaw.*

Change: *The portion of the building in which the proposed accessory dwelling unit is to be located existed on the date of the adoption of this subsection of the Bylaw.*

Section 7.7.f:

Current: *The Special Permit, if granted, shall clearly state that it is not transferable to a purchaser of the lot...*

Change: *Remove the word "not."*

Mr. Cimeno felt that if the Board has granted an ADU, it should be permanent despite the sale or transfer of the property. Special Permits in most cases are not subject to transfer of ownership. A lot of money and effort were spent building the ADU, and to not allow it to be sold without going back to the Zoning Board of Appeals is cumbersome at the least. He would like to eliminate this entirely, and make it a permanent grant. Mr. Podolski asked if it would be sufficient to delete the word "not." By statute, all Special Permits are required to be recorded in the Registry of Deeds.

Section 7.7.h:

Current: *The accessory dwelling unit created shall be...*

Change: *The accessory dwelling unit created within the existing building shall be...*

Current: *...shall be a minimum of 350 square feet...*

Change: *No addition to the principal residence shall increase the size of the building more than 400 square feet.*

The purpose is to not create large ADU additions to existing dwellings. There have been a couple instances in which these are larger than the house itself, i.e., a house that is 1,200 square feet has an ADU of 1,500-2,000 square feet. The current language does not prohibit that, but Mr. Cimeno's opinion is that the intent of the Bylaw to do that. He would like to try to limit this so that when they go to the ZBA, the Board can consider additions up to 400 square feet. There may be instances in which adding some square footage includes access, stairways, elevators, garage, or other architectural elements that would help with conversion; this should not significantly change the character of the house by adding an excessive amount of square footage. The general intent is to utilize existing housing stock to create something that looks pretty much the way it did and to help support a family.

Mr. Bethoney asked Mr. Cimeno what he would tell Town Meeting when it asks why the Town is creating all these owner-occupied two-family dwellings in single family neighborhoods. Mr. Cimeno said that it is the will of Town Meeting; if they do not believe the Town should embrace this, they should not adopt it. From his perspective, there is a large amount of people who would like this type of scenario and would accept it. Families have changed in 50 years, as have their sizes and economics. There is a tendency today for adult children to stay in the family home with their parents for a longer period of time. They want independent living facilities, and this is a way to do that while preserving the single family dwelling.

Section 7.7.i:

Current: *One parking space shall be provided and designated for each accessory apartment...*

Change: *Delete this in its entirety.*

There is no parking requirement for single or two-family dwellings, so the question is raised as to why it is required for ADUs. Off-street parking is a good thing to have and should be part of the

Bylaw, but Mr. Cimeno felt that this section in the context here should be deleted entirely.

Section 7.7.k:

Current: *The Board shall review and approve the septic system on site as part of the approval process.*

Change: *The Board shall verify that there is a septic system approved by the Dedham Board of Health.*

Mr. Cimeno said that septic systems are approved by the Board of Health, not the ZBA. It is a non-issue if there is Town sewer.

Section 7.7l:

Current: *Any Special Permit granted pursuant to this section shall require that the applicant request certification of the permit every three years, and failure to request such certification shall cause the permit to lapse.*

Change: *Delete this in its entirety.*

The reality is that once these are granted, the motivation for someone to come to the ZBA every three years is poor. If the Board grants a Special Permit, there should be no ongoing condition to it. He felt very strongly that the other conditions remain, i.e., the property must be occupied by the owner. If conditions are violated, the Building Department can cite the owner and enforce it.

Diane Barry-Preston, Livable Dedham, encouraged the Board to strongly consider creative changes to ADUs. A survey done three years ago received responses from 624 people over age 50. Nearly 500 people, or 71%, would like to continue to live in Dedham as they age, but many do not have the right downsizing options. Approximately 75 people came to a housing forum and discussed what options they would like to continue to live in Dedham; many stories were told about how people had to leave Dedham because the right housing options were unavailable. There are a lot of resources to assist the Board, i.e., Harvard Center for Joint Study on Housing. By 2030, 41% of Dedham's population will be over 55. A report written by a Needham consultant looked at 700 towns and their experience with ADUs. These can be controlled, and she encouraged the Board to make it conditional. It ends up being an extra 20-30 units in town. She suggested developing middle class, middle price developments that will allow people a different choice. Land, however, is very expensive and finding a contractor is difficult.

Mr. Bethoney asked whether Livable Dedham would stand up at Town Meeting in support of an article from the Planning Board regarding ADUs, and talk about all the reasons why Town Meeting should vote yes. Ms. Barry-Preston said they absolutely would do that. Mr. Bethoney said their support would definitely be helpful on whatever the Planning Board recommends to Town Meeting, whether it is consistent with what was discussed this evening or a variation thereof. She said hope to have another forum and panel discussion before the next Town Meeting to see what other towns are doing and what Dedham should consider. Mr. Bethoney said that when the article is presented to Town Meeting, it should show what the article currently is and how it will change, i.e., the article currently says that the owners have to come back to the Planning Board every three years, and the recommendation is to delete this. It should be clear and succinct. Mr. Cimeno said it would include any existing accessory building of substantial size, i.e., a carriage house or a free-standing garage. These can be converted to an accessory dwelling unit under the criteria in the ZBL as it currently exists. He clarified that it is existing buildings only, not new construction.

Mr. Cimeno proposed elimination of four sections and adding additional language. Ms. Porter said

one of the requirements that he did not suggest eliminating was that the changes be consistent with the neighborhood and that there not be an additional front entrance added. She said there are many circumstances in which it would be more consistent with the neighborhood or in cases that require ADA accessible entrances. She asked if there would be a provision for a waiver, saying it could be in the community's best to have this.

Mr. Cimeno said he has mixed feelings about granting waivers when there are criteria. He understood the desire for flexibility in granting waivers, but there is a conflict between having rules and granting waivers, as this would bring up the question as to why you have rules in the first place. If the rule of having a second entrance is problematic it should either be changed to not make it problematic or eliminated in its entirety. He does not think it is the best provision if a criterion is wanted, but he has not heard a lot of negative feedback on it. As a building official, he would prefer to allow people to be flexible. The ZBA, which is the SPGA, should have the ability to understand and appreciate how the building is laid out, and grant whatever relief is necessary for the building to function the right way. If Ms. Porter, through the Board, wants to change or delete that, he would be amenable, but, as stated, he has not heard a lot of negative feedback in that regard. The intent of the section was to discourage buildings from looking like traditional two-family buildings. He does not know if the townspeople have a strong feeling about it, but from his perspective, he would prefer to have the flexibility of putting a door where it is appropriate, especially with accessibility issues. A door in the front of a building sometimes works better.

Mr. Zahka said that when the bylaw was written, it was referred to as the "in-law apartment bylaw." He appreciated that Ms. Tapper contacted him and other attorneys for their input. Since the bylaw has been in place, 90% of the phone calls he has received are for in-law apartments. There are a few who want to put in a dwelling unit in to make extra money. This is an anti-in-law bylaw. People call him with great plans to construct this, but he cautions them on how much money to spend because if the property is sold, it no longer works. He liked Mr. Cimeno's idea of getting rid of the restrictions as opposed to the waivers. He said these are actually two-family dwellings; the difference is that an accessory dwelling unit is regulated by size and requires the owner to live there. What he does not like is that requirements are put on an in-law bylaw that he could do in a single family dwelling, but not on an accessory dwelling unit. He could put as many doors as he wanted on his single family dwelling and still keep it a single family; there are houses on his street that have two doors in front, i.e., a front door and a breezeway door. This cannot be done for an accessory dwelling unit. He disagreed with Mr. Cimeno, saying that if he can build and comply with zoning, why should he be prohibited from doing so. The accessory dwelling unit can only be up to 1,000 square feet or one-third. Mr. Cimeno looked at it from the perspective of using existing housing stock and not doing significant changes to the building. He agreed that people can put up large additions to their single family dwellings as of right, and not convert it to two-family or accessory dwelling unit, but some are larger than they should be. He is trying to balance philosophical reasoning and practical situations in which people significantly re-do their house to the point that the original building does not really exist anymore and becomes secondary to the addition. People were very verbal to the board with their concerns about how and why this was happening. The applicants said they could do this because they had sufficient land and met all the requirements. However, they are also making a larger building, which gives it the ability to be used as a two-family.

7.2 Conversion of Single Family to Two-Family Dwelling

Mr. Cimeno felt that it could be expanded upon to make it more accessible by allowing an existing building to be torn down and reconstructed with the criteria of making improvements to the current building vs. what will be achieved when it is done. This is allowed only in Single Residence A and

B. There have been situations in which there is an existing single family dwelling in Single Residence A and the owners wanted to convert it to a two-family. This is allowed in the bylaw, and has been for 40 years. The provision of requiring 50% larger lot size was put in to allow the conversion with no restrictions on the use. Mr. Cimeno felt that this was reasonable given the circumstance. There, however, is a limitation of 20% cubic content. There is a good argument to say that 20% may not fit for every situation. He agreed that flexibility should be allowed.

Mr. Bethoney said that Town Meeting may ask why the Town would allow two-family residences in a single residence zoning district. Others may ask why the Board is striking out the ability to put two-family dwellings in a single family residential area when it has been in the ZBL for 40 years. He does not know the answer to this. Mr. Zahka has always interpreted the ZBL to say that this can be done in General Residence as a matter of right without the additional criteria. Mr. Bethoney added that the lot size regulations and setback requirements must be met. Mr. Zahka disagreed, saying that the bylaw is written as a conversion bylaw, i.e., a single family dwelling can be converted to a two family if it pre-existed, but would require a Special Permit and 50% more land area in the SRA and SRB zoning districts. He interpreted the bylaw to say that an older house in the General Residence zoning district can be converted as a matter of right without a Special Permit and the requirement for 50% land area because the bylaw only applies to SRA or SRB. Mr. Bethoney said he is concentrating on SRA and SRB. Mr. Cimeno said that if a single family dwelling is converted to a two family residence, you must have 90 feet of frontage and 11,000 square feet of land area, as well as the 50% requirement and Special Permit.

The Building Department only does things that the people of the town want; these are then put into the ZBL. Zoning is completely up to a municipality as to how it wants the town to be. Mr. Bethoney said that if this is brought up to Town Meeting, there will be push-back even though it is allowed, and it will have a high likelihood of failure because of all the angles instead of specific objectives. He wanted to consider all these things before any firm proposal is made or the Board makes any recommendations. Ms. Tapper said this is one of the reasons she brought this up. She was adding waiver sections, rather than eliminating pieces. The restrictions would be in place except with the accessory dwelling units not running with the land; she believes this should be eliminated. She added waivers so that the conditions are not changed, but owners would need to show why it is a good thing to approve, and what mitigation measures would be in place, i.e., more open space. No restrictions are being changed; in Mixed Use Development, more restrictions could be added, and allow those to be waived in very particular cases. Mr. Cimeno said that if there are things that need to be corrected, it should be done.

7.4 Mixed Use Developments

Ms. Tapper proposed modifications and changes:

1. Bring the definition from Section 10 into the body of Section 7.4.1.
2. Limit the density to an agreed upon level. This could be waived if more open space is provided or whatever the Board finds acceptable as a trade-off. This puts more controls on it and will hopefully address some of the concerns of Town Meeting last fall.
3. Allow conditions to be waived to allow developers to ask for waivers and, in asking for them, to explain why it is impractical (not for financial reasons) to build it as required. This allows for flexibility in more environmentally friendly design, i.e., more open space and sustainability components. She requested input from the Sustainability coordinator and the Conservation Commission agent as to what they would like to see in developments. These would not be requirements, but would be offered in exchange for waivers. It gives the applicants an idea of what the Board is looking for. Relief may not be granted if the Board

does not find them worthy. It allows flexibility in design but would not be precedent setting; Special Permits are always discretionary because they are all about the individual site.

Mr. Bethoney commented on the following issues:

- Ms. Tapper stated that the Applicant should be required to show that they can build a project in MUD that strictly complies with the regulations as they stand today. If they are able to build something there that meets all the regulations and they feel would be better built by using waiver requests, fine. If they cannot build a MUD using the criteria that is in the bylaw today, they should not be allowed to be considered for a Special Permit. He agreed with this.
- Ms. Tapper said that builders need to show that they comply fully. For example, a PRD must show that a subdivision can be built that meets all the subdivision regulations and the number of lots that it would have in order to make the proposal for a PRD at 1.5 times the units; otherwise, they cannot propose it. He agreed with that and the analogy. In doing so, they have to show adequate parking for the units and the commercial component. Many developers have shown how they will do this on a shared parking concept. Mr. Bethoney did not think this should be considered at all when making a proposal that the applicant can meet all the requirements.
- The ZBL also recommends 10% nonresidential uses; Ms. Tapper suggested 30%. Mr. O'Brien has indicated to a developer many times during scoping sessions that he is looking to create an apartment building with "a hot dog stand;" this means that the 10% is such a small amount of space in comparison to the whole. Mr. Bethoney agreed that 30% nonresidential should be part of the requirements to be considered for a Special Permit for a Mixed Use Development. This 30% should not be disguised by common bathrooms, hallways, elevator shafts, utility rooms, electrical rooms, etc. It should be calculated on the net nonresidential used space. Calculation of net nonresidential space needs to be defined. In calculating parking, it should remain what it currently is for residential, and one parking space for every 200 net square feet of nonresidential of the 30%.
- The bylaw should state somewhere in its introduction that Special Permits are independently evaluated for each project based on their specific merits, and that waivers granted on previous projects shall not be considered precedent setting for any other future projects anywhere in town. In the past, many people have depended on the Board's action based on previous actions, and do not take into account the specific circumstance of the previous project on which action was taken. They assume that, because it happened, it will always happen, regardless of what the circumstances of their project are. Every project coming before the Board, Special Permit or not, is granted or denied based on its own merit or lack thereof.
- Parking requirements for residential and nonresidential uses should be clearly stated in the bylaw. When an applicant considers a project, either currently owned or about to be purchased, he should anticipate the project based on what the site will support under the current regulations, not what the site will support if waivers A, B, C, etc., are granted. Developers should do their due diligence. If after doing that they find out that the site is unable support what they thought it would, they should go to the owner, explain the findings, say the property is not worth what he is asking, and offer to pay a lower amount. He should not buy it knowing that he cannot do what he wants based on the regulations. The town would then take the hit by needing to grant waivers.

Mr. Bethoney said that the MUD bylaw needs to be looked at significantly more than what is being discussed at this meeting. Applicants must have a clear pathway as to what they need to do to be

considered for a Special Permit up front. There has been a lot of talk about horizontal and vertical development. He did not think horizontal development should be considered in the CB zoning district at all, but he would be willing to consider it in the Highway Business zoning district.

Mr. Podolski has been trying to get the Mixed Use Development bylaw revised, and Mr. Bethoney's proposal is a great first step. He would like this brought forward sooner rather than later so that applicants will have clear guidelines on what the Town expects before they purchase property. Mr. Bethoney said a lot of this is a result of Mr. Podolski's desires to put more regulatory control on these types of developments. There is a saturation point, and he is not sure if this has been reached; it is up to the will of the Town to decide this. The Planning Board members, as elected officials and with the help of professionals, are supposed to recommend to Town Meeting what it thinks should be considered and why. Mr. Podolski discussed a moratorium originally, and then other ways of regulatory control by putting together a Planned Residential Development type of review through Town Meeting. With tonight's discussion about accessory dwelling units and single family conversion, Mr. Bethoney thought it was the appropriate time to discuss this, noting that they have been discussed by the Board many times.

Mr. Bethoney then said an applicant should come in with a waiverless plan, one that fulfills all the requirements. Discussion could then move on to how the project would be significantly better with certain waivers, i.e., sustainability, open space, etc. The plan should not be filled with waivers from the very beginning. An applicant has to commit to a project without waivers before deciding to either buy a site or redevelop it. It may limit redevelopment of currently owned properties. People do drive around, look at a site that has waivers, and assume that the Board would automatically grant those waivers to them. When someone asks a waiver, he/she must provide other benefits to obtain that waiver.

Ms. Porter would be hesitant about large changes on parking requirements. She said the Town could benefit from a more wholesale look at the overall parking requirements and encouraged the Board to think of taking a more comprehensive look at this. There have been very generous parking requirements in the past, so there are a lot of spaces to fill. She acknowledged that this may not be possible in the new two weeks prior to submitting articles to Town Meeting. She asked if finalized wording is needed for the warrant, which closes in early February. The Board already has an automatic placeholder. The Planning Board is responsible for holding a Public Hearing on any land use, whether it sponsors it or not. At the time of Town Meeting, the Board can relate the appropriate wording to the Town Meeting members. Mr. Bethoney said the Board has the ability to waive the nonresidential parking, but not the residential parking. He believed that both should be waivable in the interest of getting the best project possible. The Planning Board should have the opportunity to waive any requirements as long as it is deemed to make the project better than it would be if the project had literally done all the requirements. He said there were certain locations in which this should not be done, and he would have to consider it if it made a significant improvement in the project. He did not want to tie the Board's hands the way it is currently.

Ms. Tapper said that Mr. Bethoney suggested that there should be one parking space per 200 square feet of retail space. This is what is in the bylaw. What is required in a Mixed Use Development is one parking space per residential unit, and the normal number allowed for the use if it was (*unintelligible*). This is the one thing that the Planning Board can waive at this time. Not quite as many are needed for retail in the CB zoning district. In the CB zoning district, the Planning Board has the right to waive, but she suggested that any conditions can be waived including residential parking. Mr. Bethoney said the bylaw requires that the units be at least 400 square feet. His opinion is that they should be at least 650 square feet, knowing the wants and desires of apartment dwellers in the

area. Minimum square footage must be discussed, as this is very small.

Mr. Bethoney said that if the Town builds up housing stock, whether through Mixed Use Development or other development, there needs to be an affordability component built into the bylaw requirements so that a developer does not come in and the Board needs to decide that he needs X amount of affordable units. There needs to be a minimum affordable housing component so the Town can keep its ratio at least the required 10% or higher affordable housing stock in the community. The Board has been doing this voluntarily but only through negotiation with a developer. For clarity for the developer, there should be a requirement that the number of affordable units that makes sense as a percentage of the overall number of residential units. The exact percentage will be discussed in the future. Ms. Tapper said they could add a fifth statement in Section 7.4.3 that would state that if affordable units up to a certain amount were to be provided, it could justify a waiver. In other words, providing affordable units voluntarily could offset impacts. The Town needs an affordable provision, but this is a bigger topic than can be handled at this time. If the Board wants to make clear that one of the values of the residents of Dedham is to provide affordable housing, this can be easily added. However, there needs to be more work on this.

Ms. Tapper asked if the Board was happy with how this is written now, with the exception of adding a piece that says that Special Permits should not be setting a precedent, or whether they wanted to expand this. Mr. Bethoney did not think the memo to Town Meeting is something that they not grasp at all, and needs to be simpler. He asked for the Board's opinion, and if it is satisfied, it can be added. He noted that square footage being changed to 30% was also discussed by Economic Development Director John Sisson, who wrote a memo recommending that the Town grant waivers for certain conditions as long as the applicant added more commercial space along sidewalk lines. It said that all the storefront areas cannot be taken up by noncommercial uses, i.e., parking. The Town should take advantage of the frontage and find an alternative to parking. This has been done by reducing the size and height of the buildings, and reducing the number of units reduces parking demands in return for some waivers.

Attorney Kevin Hampe had come to the Board last year with his client, Nordblom Company, regarding property at Legacy Place and how to reduce the amount of nonresidential space within the same building. Mr. Bethoney said they asked if horizontal building could be considered on the same lot. Basically, this would be a stand-alone residential building constructed on a lot along with a commercial building owned by the same people. They asked if the separate commercial use could satisfy the requirement under the ZBL, rather than it being below the residential component. Ms. Porter asked if the definition should be changed. Mr. Bethoney said this has not been allowed yet. The Board has the option to waive this as long as the applicant supports the fact that the project is significantly better with the waiver and the Board agrees. This would be for Town Counsel to write.

Mr. Aldous was concerned that this would die at Town Meeting. There are so many ideas heading in the same direction, and Town Meeting will get tired of arguing about it. He thought this should be pushed to another Town Meeting. Mr. Bethoney agreed, saying there needs to be clear direction so they can vote, as well as a unified front in presenting it.

Mr. O'Brien left the meeting to go to work.

Mr. Cimeno commented on the two different and distinct concepts of MUD. The original concept approved by Town Meeting was for the CB zoning district to allow for MUDs to encourage people to use Dedham Square by putting in residences. The other part of the concept was to provide for commercial on the first level of the building to have storefronts along the roadway. Parking would

typically be below the building or on grade if there was room. This was the original concept, but since then it has moved out of CB and been introduced into other areas at the will of Town Meeting. It has expanded into other zoning districts that do not have the same criteria, i.e., a storefront is not necessarily needed on the ground floor, and the residential units do not necessarily have to be above the ground floor. It is allowed in RDO, and doing a residential building and a commercial building in the same proportions may make sense. This is dramatically different from the CB zoning district. Mr. Bethoney said this is why horizontal development could be considered in the Highway Business or RDO zoning districts and not in the CB zoning district. Mr. Cimeno said that in order to do that appropriately, these concepts need to be differentiated in the Zoning Bylaw because they are two different animals.

Mr. Bethoney asked Ms. Tapper to write a memo concerning what was discussed at this meeting so the Board can review it and make a decision. Ms. Tapper said that there will not be another meeting until 2/12/19 and the warrant closes on 2/8/19. Mr. Bethoney asked if there could be another meeting before then. He said the summary should be submitted to the Board and if there is enough interest in taking action, they Board will meet prior to 2/8/19. Ms. Tapper said she is not back in the office until 1/30/19, and asked if there would be enough time for the Board to make a decision. She suggested that if the Board agreed that it wanted to do something and wanted to sponsor an article, she could write it up so the Board can discuss it. Town Counsel could then prepare a draft of what has been discussed. The Board can then decide before 2/8/19 or if they could have a placeholder, they could meet on 2/12/19 to come up with the appropriate language. She asked if the Board wanted to go in this direction and, if so, if it wanted to be the sponsor.

Mr. Podolski said something should be done at this Town Meeting, but not all three. The Board needs to determine the priority; he thought the accessory use definitely needs to be done, and Mr. Bethoney agreed, saying that this is a regular issue for the Building Department. He suggested that she write this up. Mr. Podolski said they should stay away from the single to two family conversions for now. The Board decided to concentrate on ADUs.

With regard to MUD, Mr. Bethoney said that, philosophically and without it being in the Zoning Bylaw, the Board can feel that the applicant has to do something, i.e., provide parking, etc., for them to consider a project. Ms. Tapper said that there is provision for asking for a waiver right now. The Board could do that, but the projects would have to be fully compliant with the current regulations. The applicant could not ask for any waiver from the Board for flexibility, and the applicant would have to go to the ZBA for a waiver.

Ms. Tapper will focus the memo on ADUs and MUDs. Single to two family conversions will not be done for this Town Meeting. Mr. Podolski said they should go with the waiver route for ADUs. He thought the ZBA should have the ability to grant waivers. She will write a memo for waivers with MUD including a section requiring the applicant to show that they can do it without waivers, changing 10% to 30%, increasing the minimum size to 650 square feet, and adding an affordability component to the findings. She will also have Town Counsel look at the language. Mr. Bethoney suggested that she review the previous Planning Board reports to Town Meeting so she can see what has been successful. There will be a placeholder put in for Town Meeting. The draft language will be submitted to the Board for review on 2/12/19. The Board will be the sponsor of the article. The single to two family issue will be discussed for the fall Town Meeting.

Old/New Business

Mr. Bethoney received an invitation from MAPC regarding a listening session. He asked that the

Board review the information if they are interested in attending on January 10, 2019, 3 – 8 p.m., Wednesday, January 30, 2019, at Castle Island Brewing in Norwood. Ms. Porter explained what MAPC is and that they are working on a regional plan. Children and dogs are welcome to attend.

The Board was going to consider the appointment of members for two committees, but since Mr. O'Brien had to leave, they postponed that.

Mr. Podolski moved to adjourn, seconded by Mr. Aldous. The vote was unanimous at 4-0.

Respectfully submitted,

Robert D. Aldous, Clerk

/snw