

**HAVERHILL PLANNING BOARD
MEETING MINUTES**

DATE: Wednesday, November 9, 2022

Place: City Council Chambers – Room #202 City Hall

Time: 7:00 PM

Members Present: Member William Evans
 Member Bobby Brown
 Acting Chairman Robert Driscoll
 Member April DerBoghossian, Esq.
 Member Nate Robertson
 Member Ismael Matias
 Member Carmen Garcia
 Member Karen Buckley
 Chairman Paul Howard

Members Absent: None

Also Present: William Pillsbury, Jr., Director of Economic Development and
 Planning
 Lori Robertson, Head Clerk

Approval of Minutes:

October 12, 2022

After board consideration, Member Robert Driscoll motioned to approve the October 12, 2022, meeting minutes. Member Bobby Brown seconded the motion.

Carmen Garcia – yes

Bill Evans – yes

Karen Buckley – yes

April DerBoghossian, Esq.- yes

Bobby Brown – yes

Nate Robertson- yes

Robert Driscoll – yes

Paul Howard – yes

Ismael Matias - yes

Motion Passed.

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Public Hearings:

Member Nate Robertson read the rules of public hearing into the record.

Frontage Waiver for 29, 31-33 Belmont Avenue:

Member Nate Robertson: Read rules of public hearing into the record.

Steve Defeo, President of Bradford Unlimited Corporation and the manager of 50 Greenville LLC addressed the board. The property that we are talking about has adequate access.

William Pillsbury: You received the variance already?

Steve Defeo: Yes.

William Pillsbury: That was not appealed?

Steve Defeo: No.

Chairman Howard: Is there anyone from the public who wishes to speak? Seeing none I am going to close the public portion of the hearing and open it up for comments from the Planning Director.

William Pillsbury: This is a frontage waiver. A frontage variance was previously granted by the Board of Appeals. No appeals was taken. The role of the board as you know on acting on a frontage waiver is limited to the specific issue by statute is to confirm that there is adequate access provided to the site by the reduced frontage. The review of the plan does indicate that there is frontage on the way which is known as Belmont Avenue and reviewed by the building inspector and myself and I would recommend approval of the frontage waiver as presented for 29, 31-33 Belmont Avenue.

After board consideration, Member Bill Evans motioned to approve the frontage waiver for 29, 31-33 Belmont Avenue as recommended by the Planning Director, William Pillsbury. Robert Driscoll seconded the motion.

Member Nate Robertson: yes

Member Bobby Brown: yes

Member William Evans: yes

Member Karen Buckley: yes

Member April DerBoghosian, Esq.: yes

Member Carmen Garcia: yes

Member Robert Driscoll: yes

Member Ismael Matias: yes

Chairman Paul Howard: yes

Motion Passed.

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City department reports are attached to and considered part of this board's decision and notice of decision. Any appeal of this board's decision and notice of decision shall be taken in accordance with M.G.L. Chapters 40A and 41 within twenty (20) days of the board's filing of this decision/notice of decision with the city clerk.

**List of all documents and other exhibits used by the public body during the meeting:
Online application**

Zoning Amendment (Accessory Dwelling Units (ADU's))

Please note at the November 9, 2022, Planning Board meeting held at 7:00 pm in the City Council Chambers the board considered the recommendation of the Planning Director, William Pillsbury, Jr., to forward a favorable conditional recommendation to the city council on the proposed amendment.

Member Nate Robertson read the rules of public hearing into the record.

Matt Hennigan of the Community Development Department addressed the board. As you are likely aware, in order to combat the housing crisis, the Mayor is in the process of rolling out several housing tools. The tool that we are going to be talking about tonight is an amendment to the accessory dwelling unit zoning. One of the things that we try to keep in mind when we are formulating these tools is how each of these tools have impact on the following areas. The housing inventory; housing affordability and housing safety. We are excited that the proposed ADU zoning will be able to positively impact each of these areas. Before we get too deep into the details, I think it's important that we are on the same page as far as what ADU's are. ADU's are accessory dwelling units, ADU's are already a part of our zoning. Currently all ADU's are permitted by special permit by the Board of Appeals. ADU's are commonly thought of as in-law apartments. However, the zoning does not require this zoning amendment any family relationship. It is important to note that the property is required to be owner occupied. As our population continues to age, we are seeing an increasing need for smaller housing units. ADU's are intended to house smaller households, we are talking about 1-2 person households. These units are small, 1 – 2 bedrooms, in fact 2 bedrooms is the maximum size. They are supposed to be small as they are accessory unit to the principal dwelling. They are naturally supposed to be small. I think that is an important point to keep in mind. We put together a fact sheet, it is a one-page sheet that I am hoping each of you have tonight. We think it's pretty good, we think it's pretty thorough. Instead of going blow by blow through the fact sheet I think the best way to frame our conversation tonight is to go back and look at the ADU's from the inventory, affordability and the safety aspect. I am just going to jump right in. What is new as far as inventory, currently the ADU zoning as it stands now, ADU's can only be created via in an addition to the principal structure or within the principal structure. The zoning amendment will allow for existing, detached accessory structures to be converted into ADU's. We are talking about garages, barns or attached accessory structures. That is where the increase of inventory will come from. The zoning amendment will also allow for the construction of new detached ADU's. Moving to affordability, we talked a lot about affordability prior to rolling this out. Where we ended up is where we found would be best would be for the affordability to be incentivized within the zoning itself. So what does that mean? How is that going to work? For those homeowners that create an ADU in the following

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scenarios within the principal building, with an addition to the principal dwelling or within this is an important distinction or within an existing detached structure ADU's shall be permitted by right. As long as the homeowner agrees to rent the ADU at 70% of fair market rent or below. So fair market rent should be on your sheet, fair market rent is something that is established by HUD and it's established annually and based on the region. It's not specific to Haverhill it's specific to Merrimack Valley. It's important to note that any new detached affordable ADU shall require a special permit from the Board of Appeals. In summary affordable ADU's will be allowed by right that's the incentive as long as the 70% FMR affordable commitment is made. Finally, in regards to safety, as I am sure you are likely all aware the City has been seeing a high volume of illegal units within multifamily dwellings in recent years mainly due to the scarcity and high costs of housing. Illegal units are unsafe, they don't comply with building codes and when we find them, we have to shut them down. That requires people needing to find another place to live. This amendment will attempt to provide a path to make them legal. I think it's important to point out that the amendment offers a path. It might be a narrow path but it's still a path. To bring these illegal units online as legal ADU's and multifamily provided that the multifamily this is where the size of the path comes in...provided that the multifamily is owner occupied and ADU meets all state and local code requirements. Finally, the amendment states that in the ADU created within the existing footprint of the principal dwelling shall also be permitted by right. This goes for the illegal units within multifamily that are created as legal ADU's. As well as the creation of new ADU's. Thank you for your time. If you have any questions or comments that you might have?

Member Buckley: Where did the 40% number come from?

Matt Hennigan: 40%? The size? In the existing zoning it was 30% and it increased to 40%. That goes back to when the entire zoning ordinance was overhauled a year or so ago. At that time the size, the maximum size was increased from 800 s/f to 1,200 s/f but the percentage was not increased. That is more of a housekeeping issue there. The way it's written is the lesser of 30% of the gross floor area of the principal structure or in this case 1,200 s/f whichever is less. The size was increased but the percentage wasn't. We are just cleaning that up.

Member Buckley: (inaudible)

Matt Hennigan: We are not talking about going from a 1 family to a 2 family. We are talking about smaller units for smaller households. 1, 200 s/f is fairly significant.

William Pillsbury: One of the things I was going to recommend in my comments and I will mention it right now is that there is a lot of discussion about the percentage and the square footage amongst the Mayor's task force and the Mayor himself has a very strong opinion on this stuff and the building inspector and the health director Richard MacDonald as well. Since we got Melinda's comments recently and wasn't able...didn't want to be here tonight probably shouldn't since she is a Councilor and she is going to be ultimately voting on this. She wanted to get her information in front of the board tonight and also to have it be discussed by the Mayor and his task force and the team. What I am going to recommend is that the recommendation that she has which are good that there be an opportunity to review that between now and the council hearing. The minutes would reflect and the opportunity and the comments from the board members included and forwarding the comments and asking the departments and the Mayor's group to review that between now and the council hearing which is to be held in a few

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weeks. That would give a chance to have those points that she is making which are think are valid especially related to the handicapped size. That maybe a criteria to add into the affordability aspect might be something that we might want to think about. I want to have the building inspector the opportunity to weigh in on that. Instead of trying to postpone or continue this hearing, it would be to have her information passed through to the team between now and the council hearing and have the various participants comment on that before the council meeting and at the council meeting. She is going to bring it up there anyways so you might as well have the opportunity to vetted it in advance. That's my thought about that.

Member Buckley: Solution (inaudible)

Matt Hennigan: I don't think anyone would argue that we are in need of all types of housing units across the board. This type of units is dedicated to smaller households. That is the spirit of what ADU's are. I agree with what Bill said.

Chairman Howard: I agree with that. I don't see why they need to be bigger. We are not trying to make 2 family homes. These are supposed to be units for bringing your parents in, or bringing a relative in. It's not to make a single-family home a two family home. 1,200 s/f is 40x30, a lot of people's houses aren't that big.

Member Buckley: (inaudible) accommodations but nonetheless, for an in law apartment

Matt Hennigan: That's fair, I think first and foremost we are trying to create more inventory. If they are going to be rented, we want to incentive them to be rented as affordable. I don't think that they necessarily all are expected to be rented. I understand the distinction between the family component and whether or not rent is exchanged that's up to them.

Chairman Howard: The incentive of zoning is getting it by-right verses permit. If a permit is not that difficult to get, why wouldn't I just go get a permit. I don't see what the incentive is.

Matt Hennigan: It's a more expedited process for it to be by-right. It's more streamlined. I think some folks see that as an incentive. I hear both sides. Trust me, I do.

Member Robertson: Affordability I am just curious how the 70% fair market rent is articulated. Is that in the form of a lease agreement or a deed restriction?

Matt Hennigan: The first step would be the homeowner would have to submit a letter of intent to the Community Development Department obviously agreeing to this. Secondly, you are correct that the affordability deed restriction would have to be recorded with the Registry of Deeds because the units are intended to survive any change of ownership. If they do change hands, we are not likely to know but the closing attorneys are. The new owners would be made aware that they are buying an affordable ADU. I guess it begs the question hey what if we don't want an affordable ADU? What would happen? What would happen would be they would have to come back before the Board of Appeals and get the ADU approved as if it was an affordable which is the other option just like you said. From there on an annual basis, they would have to submit a lease agreement to the Community Development Department to make sure that its still affordable. As you might imagine, for the affordability there is a big push for

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affordability. That's why we are incorporating it into this. The argument could be made that these are naturally affordable, and I hear that. This is important to what we are trying to accomplish.

Chairman Howard: I understand that it's just...if I owned a property like that I would just go through the special permit.

William Pillsbury: I think part of it is back to the family idea that you don't have to go through the hoops of the ZBA and getting a special permit. There's cost involved in that. There's plans that have to be submitted, floor plans. There's an aspect of this that really tries to make it easier on the family that might be trying to add that particular element. With the idea in mind as we stated earlier that there is probably not a lot of rent being charged with a family situation anyways. They can reach out and accomplish that. The Mayor was very adamant that he really wanted to have an affordability piece to this. We batted this around for quite a long time and came up with this particular methodology that you see before you tonight. We don't profess to know that it is perfect. We don't profess to know what the generation of demand will be. We know that we want to create more units, but we don't know what it is going to be like. One of the things we committed to is to keep a close eye on this and monitor it over the first year of implementation and see how it is working. I think that is important to keep an eye on it to see if you are really accomplishing the goals we set out to do. If not, then we need to make some adjustments. That is what zoning we can always be changing it. I think that is the sense. We wanted to try to get an affordability in there. There was an element which is not here, but I think Andrew, we may have talked about it, the Mayor may have talked about creating some type of grant program to enable that affordability to be accomplished. We are not there yet.

Matt Hennigan: That could have been one route as well. That was part of the discussion had whether or not to incorporate affordability with a loan program, tax exemption program. There was a lot of back and forth.

Chairman Howard: I understand...work on that later just getting something on the books.

Matt Hennigan: This is based on Salem. They had language that we looked at very closely. A lot of that comes from what they are doing there.

Member Buckley: (inaudible) all units that are affordable...a barn

Matt Hennigan: Without a doubt.

Member Buckley: (inaudible) so.

Member Brown: They are renting it out.

Matt Hennigan: As I stated these units have to meet all codes, state and local.

Member Driscoll: inaudible. If they have diabetes and they cut his foot off. These need to be reasonable larger because you lose space with the width of doorways and things. Can the 40% be flexible?

William Pillsbury: I think that is certainly something we should propose. I think that is what Councilor Barrett's comments and Member Buckley as well. I think what we want to present is the option of maybe a larger unit and it would probably bounce it back into the special permit process and go a case-by-case

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basis. We would be looking at somewhat unique properties. If you are talking about a large barn that is going to be converted with handicapped accessibility, then that might be a unique situation where you would want to have the flexibility built into the ordinance. I think these are great points. That's why we are doing this hearing to interject these things into the discussion. What I am hearing that is something that we need to take a strong look at is how to balance...again we are trying to be expediting, quick to get it done and have the by-right and that type of thing but there might be tradeoffs with that. Somebody might want to go through the special permit if they were able to have more flexibility within the special permit process to petition for a larger limit based on handicapped accessibility to be built into the unit. Obviously, we will bring that back to the Mayor's group and have a good discussion about that. I know the building inspector has concerns about size as well. It is certainly something we will discuss between now and the council hearing.

Matt Hennigan: We definitely looked at a lot more than just Salem. We paid close attention to the size. I will follow Bill's lead on this, and 1,200 s/f is on the higher end just keeping in mind we are not going from 1 family to 2 family. It's an accessory uses to the principal use.

William Pillsbury: I think the element here that has been added and needs to be considered is handicapped accessibility. An element that we haven't interjected at this point. It may be valid and it may not. We have take a look at it.

Matt Hennigan: Definitely.

Chairman Howard: Is there a definition of living space? Is a finished basement living space?

Matt Hennigan: It would be. The building inspector calculates the size based on the gross living area. He has been doing it awhile because I should say since I have been involved with the Board of Appeals, we probably see one ADU application a month. They are very popular, and they demonstrate the need for these smaller units. I think it's a good improvement to what we have, and I look forward to seeing the process move forward.

Chairman Howard: Any questions from the public? Seeing none, I will close the public portion of the hearing and turn it over for comments from the Planning Director.

William Pillsbury: Matt that was an excellent job. I appreciate that. This request has come down based on the original revisions to the zoning ordinance and the Mayor wanted to do whatever he can housing strategy wise to expand as Matt has said the inventory of affordability and safety related issues as it relates to our housing stock. The proposed ordinance has been vetted by the Mayor's group on housing as result of their work and the purpose of the amendment is to make the process easier to establish an accessory unit and to allow them to be larger than the current zoning. Again, we have heard some things tonight that we might need to broaden that discussion some more. We have comments from the City Departments, and we got some comments from Councilor Barrett. Recommending additional changes/revisions and I recommend we incorporate her concerns as well. With that I would recommend that we would forward a favorable recommendation to the City Council on the proposed zoning amendment with consideration of Councilor Barrett's recommendation between now and the council hearing by the Mayor's group and the Building Department.

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After board consideration, Member Bobby Brown motioned to forward a favorable conditional recommendation to the City Council as recommended by the Planning Director William Pillsbury, Jr. Member Nate Robertson seconded the motion.

Member Robert Driscoll-yes

Member William Evans- yes

Member Bobby Brown - yes

Member Carmine Garcia- yes

Member Ismael Matias- yes

Member Karen Buckley - yes

Chairman Paul Howard -yes

Member April DerBoghosian, Esq.-yes

Member Nate Robertson-yes

Motion Passed.

City department reports are attached to and considered part of this board's decision and notice of decision. Any appeal of this board's decision and notice of decision shall be taken in accordance with M.G.L. Chapters 40A and 41 within twenty (20) days of the board's filing of this decision/notice of decision with the city clerk.

- Due to a microphone malfunction please see the email from Member Karen Buckley dated November 15, 2022 clarifying her points.

List of all documents and other exhibits used by the public body during the meeting:

Affordable accessory dwelling unit fact sheet

Email, Councillor Melinda Barrett, 11.4.22

Conservation letter, 11.2.22

Fire Department letter, 10.31.22

Building Department, 10.31.22

Comment due sheet

Mayor letter, 10.14.22

Municipal ordinance

Municipal ordinance, accessory dwelling units Section, 8.1

O'Leary Way escrow:

Please be advised, the Haverhill Planning Board at its meeting held on 11-9-22 reviewed the request of Steven Paquette to reduce the amount being held for completion of work within the cited subdivision.

The board advised that the request was referred to the city engineer. The request was to review the work cited as required; advise if all work cited was completed under the approved definitive plan; if the work was completed in accordance with the approvals; and if all required remaining work was listed and if the dollar values were accurate. Please note that Planning Director

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William Pillsbury, Jr. recommended that the board vote to reduce the account as recommended by the City Engineer in his report to the board dated 10-12-22.

In consideration of the report from the City Engineer, John Pettis, Member Bobby Brown motioned to reduce the amount \$78,800.30 from the \$254,520.88 balance and maintain a balance of \$175,720.58 as recommended by the city engineer in his report to the board dated 10-12-22. Member William Evans seconded the motion. All members present voted in favor to reduce the account to the balance of \$175,720.58 as recommended by the city engineer in his report addressed to the board dated 10-12-22. Members Absent: **Motion passed.**

As a condition of the board's vote, the **BANK is required** to notify the board that the minimum amount of \$175,720.58 is held for the completion of all remaining work. The account shall not be further reduced or released without formal board approval.

List of all documents and other exhibits used by the public body during the meeting:

Escrow materials

Form A Plans:

Atlantis Ventures, LLC/J.Bradford Brooks/Lloyd Jennings/Gail Duchesne for lot 21

Eudora Street/Lot 39 Cogswell Street: Member Nate Robertson motioned to approve and endorse the Form A for lot 21 Eudora Street/Lot 39 Cogswell Street. Seconded by Member Bobby Brown. All members present voted in favor. Member Absent: None. Motion Passed.

Endorsement:

Any other matter:

Meeting adjourned.

Signed:

Paul B. Howard

Paul B. Howard

Chairperson

Lori Robertson

From: Karen Buckley [REDACTED]
Sent: Tuesday, November 15, 2022 11:24 AM
To: Lori Robertson
Subject: [EXTERNAL]Re: Draft minutes zoning amendment accessory dwelling units

Warning! External Email. Exercise caution when opening attachments or clicking on any links. . .
(here are the things I said at the inaudible points - or the gist of it as best I can remember)..

I am concerned that one group of people that would need ADUs with low rent are handicapped people who would need room for wheelchairs. Shouldn't we have some way of increasing the size based on special needs?

I think that is a very good solution.

(in response to Chrm)

Certainly, some of the ADUs will be for the traditional use of housing family members, but people don't usually charge their parents rent. The goal here is to increase apartment inventory as well as provide lower rent, which would be attractive to older people who are down-sizing, young singles and people with special needs.

(barn)

If you look at the options for affordable units in existing buildings other than the main dwelling, that means garages and barns.

So a barn could be larger than the main house, and I think we need to have provisions that make allowances for that, especially if the ADU will be occupied by a person in a wheelchair.

Karen L. Buckley
[REDACTED]

On Tuesday, November 15, 2022 at 10:42:14 AM EST, Lori Robertson <lrobertson@cityofhaverhill.com> wrote:

Hi Karen!
Please see the attached draft minutes for the accessory dwelling units.
I will add an addendum to the minutes to clarify your points so the City Council can be aware of what they are.
Thank you!
Take care,
Lori

Lori Robertson Head Clerk/Floater
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