Rowe Planning Board
March 23, 2022
7:00 P.M.

Planning Board: Chair Paul McLatchy III, Vice-Chair Ben Werner, Daniel Burke, Charles Sokol
Absent: Jessica Albrecht

Audience of Citizens: Karen Schmidt, Ramon Sanchez, Paul Graziano, John Bandoni, Robert Beaumier, Bill Reardon

Note: Due to one board member attending via remote participation, all votes were taken via roll-call vote.

Approved Motion Summary:
(discussion details and vote records in minutes below)

- Ask that the Board of Selectmen include acceptance of Chapter 39, Section 23D ("The Mullin Rule") as an article on the Annual Town Meeting Warrant.
- Adjourn the Planning Board meeting at 9:12 P.M.

Meeting Minutes:

Call to Order: Chair McLatchy III called the Planning Board meeting to order at 7:00 P.M., a quorum of the committee present.

Public Hearing on Zoning Bylaws: Paul McLatchy III opened the public hearing regarding the Zoning Bylaws at 7:00 P.M., providing an opening statement. He also noted that this public hearing, due to a clerical error regarding publication of notice of this hearing in the Greenfield Recorder, would not serve as an official public hearing with regards to the requirements set forth in Massachusetts General Laws Chapter 40A Section 5, but rather only as an informational session where comments and opinions of the public could be heard by the planning board.

Article VII, Section 2: Paul McLatchy III read the existing use table, followed by the proposed changes to the use table. Ben Werner added that the intention was to make it easier for people to stay in their homes longer, and that additional flexibility provided by allowing two-family conversions of their existing homes could help facilitate that. Daniel Burke asked for the board to clarify the differences between "detached single-family," "semi-detached dwelling," and "two-family dwelling," which the board described, to the best of their understanding, as standalone dwelling, a two-family dwelling that shares a common wall and foundation (e.g. a duplex), and a dwelling where the separate units are withing the same structure (respectively). Comments were then accepted from the public.

Ramon Sanchez asked for clarification on "trailer park" and "mobile home park," and asked if there could be a dwelling comprised of typical trailer-park or mobile home construction that

consisted of two such units attached in a way that would satisfy the "semi-detached" definition. Chuck Sokol explained that Section 9 of the current zoning bylaws preclude any dwelling built on a chassis, which would prohibit the kind of construction Ramon was describing.

Paul Graziano introduced himself as a part-time Rowe resident since childhood, and described that his career has been in urban planning as a land-use consultant, and that he has been working in that field for 30 years in over 50 municipalities throughout New Jersey, New York, Connecticut, and Massachusetts with a focus on community-based planning. He expressed concern that the outlined changes to Section 2 because the Rowe use codes, restrictions, and zoning are very broad and basic. He opined that semi-detached dwellings or accessory dwelling units do not fit into the character of Rowe, and worried that allowing for them could create a situation where abuse may occur. He also suggested that this could result in the speculative value of the property increasing, working against the stated goal of making it easier for people to move to or stay in Rowe. He suggested considering a more granular zoning division strategy may be a better way to achieve the stated goals while protecting the character of the town of Rowe. He offered assistance given his expertise should the board be interested.

John Bandoni expressed concern of the small population size, and expressed support for the proposed changes in this section.

Robert Beaumier expressed concern for the changes, citing developments in Heath where a developer built many housing units rapidly that resulted in additional stress on town services in a short timeframe.

Wayne Zavotka, who was not present at the meeting, had sent an e-mail to the Planning Board. Chuck Sokol summarized Wayne's message aloud to the group, in that he "wanted to express [his] opposition to changing bylaws to permit multi family housing in Rowe." He further clarified, after being asked what specific changes to Section 2 he opposed, that he "oppose[d] any changes to either subsection, preferring to keep both as written."

Bill Reardon asked for clarification on what a "detached" dwelling is. The board explained that in simplest terms, a "detached" dwelling was a single-family home.

Article VII, Section 10: Paul McLatchy III read the existing bylaw, and then explained that the proposed change is to remove this bylaw in its entirety. He explained that the board, after discussion, determined that it was not the business of the town to determine what relationships were appropriate for cohabitation. Ben Werner further explained that health, safety, and sanitation concerns that could be present when too many people are living in too small a dwelling are under the purview of other authorities, such as the board of health.

Paul Graziano suggested that as long as the town is confident that other agencies can protect the interests of health and safety, he felt that the proposed removal of this section is okay; however, he suggested it be certain that there are other remedies available in cases of abuse. He suggests that having other layers available for protection can be beneficial. Paul McLatchy III suggested the planning board confirm exactly which health, safety, and sanitation regulations were under the purview of the Board of Health to regulate.

John Bandoni shared that his opinion was the town should retain Section 10 as written.

Article VII, Section 18: Paul McLatchy III read the existing bylaw, followed by the proposed version. The board explained that during a recent period when the composition of the Planning Board was different it became apparent that the existing version of this bylaw prevented a special permit applicant from having their application considered by the board if the board chose to not meet as the receipt of a special permit application was contingent on the Planning Board meeting and accepting that application as received. This prevented the commencement of a strict state-defined timeline for special permit hearings and determinations. The proposed version would provide relief to applicants in the event that a future planning board either chose to not meet OR did not have a quorum to hold a meeting.

Paul Graziano explained that he felt the proposed changes were sound, but that he also suggested it be paired with an additional mechanism to force a Planning Board to meet and go on record with a determination regarding a special permit application. Chuck Sokol suggested that it may not be possible to compel a board to meet or vote on any particular issue, and that the mechanism to encourage action by the planning board is the risk of a constructive grant – which would allow for the requested use in-perpetuity by the current and any future property owners – being provided to the special permit applicant should no action be taken by the Planning Board.

Article VII, Section 20: Paul McLatchy III read the existing bylaw, followed by the proposed version. Paul explained that the current wording requires that all property owners in town be mailed notice of every hearing, whereas the proposed version would only require what was mandated by Massachusetts General Laws Chapter 40A Section 11. Chuck Sokol clarified that state law requires that for special permit hearings "notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing[,]" and that state law also requires "posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing[,]" and that "notice shall be sent by mail, postage prepaid [.... to] the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list[,] the planning board of the city or town, and the planning board of every abutting city or town[.]" Chuck Sokol also noted that the requirements for notification of hearings related to zoning ordinance and/or bylaw changes are outlined in Massachusetts General Laws Chapter 40A Section 5. Paul McLatchy III suggested that any one property owner who, for whatever reason, does not receive the currently-required notice via mail could conceivably claim that the hearing was illegitimate, potentially leading to legal issues for the town. Ben Werner explained that aligning town bylaws with state law would prevent future changes in state law resulting in disagreement between town Bylaws and state law.

Ramon Sanchez asked if there was a mechanism where property owners could opt out of mailed notices, or a mechanism where non-resident property owners would be required to opt in to mailed notices. Ben Werner explained that such a mechanism is not currently available given the wording of the current bylaw. Chuck Sokol explained that under Massachusetts General Laws Chapter 40A Section 5 town "by-laws may provide [...] that notice of such hearings under this chapter shall be

sent by mail, postage prepaid, to any [non-resident property] owner who files an annual request for such notice" which could allow for such an opt-in mechanism similar to what Ramon was asking about.

Bill Reardon suggested changing "property owner" to "resident" as a simpler solution. Paul McLatchy suggested this may require definition of what "resident" consisted of.

Paul Graziano suggested that the provision in Chapter 40A Section 11 related to abutters-of-abutters within three-hundred feet is based on the average; specifically, a 300-foot radius includes more property owners in a suburban town than would be the case in Rowe. He suggested a 300-foot distance is too small in Rowe, but town-wide is too big, and that we could require a larger distance than is provided for in state law.

Paul McLatchy III closed the public hearing regarding the Zoning Bylaws at 8:44PM, expressing gratitude for the comments by the public, especially in that everyone maintained respect and courtesy for one another throughout the hearing.

Annual Report: Paul McLatchy III asked if anyone on the planning board felt any changes were required of his draft for the Planning Board's submission to the Annual Report. The other members of the board offered no suggestions, and Paul McLatchy III stated he would submit the report unchanged.

"Mullin Rule": Paul McLatchy III asked the board if there was support or opposition to requesting that the Board of Selectmen include acceptance of Chapter 39, Section 23D ("The Mullin Rule") as an article on the Annual Town Meeting Warrant. After a brief discussion where it was established that such acceptance was not specifically a zoning bylaw change requiring a public hearing of the planning board, the other members of the board expressed no further concerns. Chuck Sokol stated that he would abstain from discussion on this issue as he served on the Board of Selectmen to which this request would be submitted, if approved.

> A motion was made by Ben Werner and seconded by Paul McLatchy III to ask that the Board of Selectmen include acceptance of Chapter 39, Section 23D ("The Mullin Rule") as an article on the Annual Town Meeting Warrant:

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Yes
Jessica Albrecht	-	Absent
Charles Sokol	-	Abstain

Next Meeting, April 13th 2022 at 6 P.M.: The Planning Board opted to not proceed with a second public hearing on the proposed zoning bylaw changes discussed during this meeting until after the upcoming Annual Town Meeting, instead planning on offering any changes at a future special or annual meeting. The board discussed availability for the next meeting, and determined it would occur on April 13th, 2022 at 6 P.M.

Adjourn:

A motion was made by Chuck Sokol and seconded by Daniel Burke to adjourn the Planning Board meeting at 9:12 P.M.

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Yes
Jessica Albrecht	-	Absent
Charles Sokol	-	Yes

Respectfully Submitted,
Charles Sokol, Secretary

Approved: 4 / 13 / 22

Chair Paul McLatchy III

Vice-Chair Ben Werner

Daniel Burke

Jessica Albrecht

Charles Sokol

Attachments:

- Agenda