

Town of Cohasset
Zoning Bylaw Working Group - Master Plan Implementation Committee
January 26, 2021 – Virtual Meeting via Zoom

A meeting of the Zoning Bylaw Working Group was held at 12:00 pm January 26, 2021 virtually on Zoom.

In attendance were:

Katie Dugan, MPIC representative
Cassie Malatesta, MPIC representative
Tom Callahan, Planning Board representative
Woody Chittick, Zoning Board of Appeals representative
Paul Colleary, Planning Board representative
Peter Pescatore, Open Space & Recreation representative
Jen Oram, Assistant Director of Permits & Inspections

Absent:

Jack Creighton, Cohasset Select Board representative
John Hallin, Building Commissioner & Zoning Officer

The meeting was called to order at 12:07 pm.

Minutes

The working group approved the Zoning Bylaw Working Group minutes from January 11, 2021. Katie Dugan will send copies to Town Clerk to post on the Town website.

Work Plan Updates

Residential Zoning

Cassie Malatesta gave a brief update on the areas of investigation under way related to residential zoning which include: area of regulations (including height), proportionality in zoning, uses and housing definitions. Town Counsel completed a memo regarding proportional zoning which was shared with the working group. The key take-aways from counsel were as follows:

- **Massachusetts Zoning Enabling Act, G. L. c. 40A §4 (“Uniform Districts”)** requires that, “Section 4. Any zoning ordinance or by-law which divides cities and towns into districts shall be uniform within the district for each class or kind of structures or uses permitted. Districts shall be shown on a zoning map in a manner sufficient for identification. Such maps shall be part of zoning ordinances or by-laws. Assessors' or property plans may be used as the basis for zoning maps. If more than four sheets or plates are used for a zoning map, an index map showing districts in outline shall be part of the zoning map and of the zoning ordinance or by-law.” The uniformity provision of the Zoning Enabling Act envisions the type of uniformity or consistency which exists in the present residential districts under the current Zoning By-Law, and in the corresponding current Table of Use and Table of Area Regulations as to allowable uses and dimensional standards for each such use within each district.
- **Pursuant to M. G. L. c. 40A §5 (“Adoption or change of zoning ordinances or by-laws; procedure”)** ultimately any action taken by the Town with respect to amendment of its Zoning By-Laws is subject to approval from the Attorney General’s Office, and therefore it is the

Attorney General who has the final say as to the validity and approval or disapproval, in whole or in part, of such an amendment to the Zoning By-Law.

The working group discussed whether there were alternative means of accomplishing some aspects of proportionality within existing residential zoning districts and in compliance with the uniformity principle. This discussion included whether FAR (floor to area ratios) could be used in residential zoning context in Massachusetts. The concept of reasonably regulating bulk and height of buildings is commonly used in commercial zoning. Given that M.G.L. c. 40A, § 3. prohibits against regulation of interior space: "No zoning ordinance or by-law shall regulate or restrict the interior area of a single-family residential building...", the working group requested that Cassie Malatesta follow up with Town Counsel. Additional guidance regarding residential zoning precedents of this in Massachusetts and whether regulation of exterior bulk & height might be acceptable to Attorney General were identified as critical follow up questions.

Cassie Malatesta reviewed her benchmarking work regarding the Table of Area Regulations with the committee. Benchmarking included summary of Cohasset, Hingham, Scituate, Duxbury and Norwell. She noted that Cohasset is the most comprehensive in its table of area regulations. Observations of note included Duxbury's definition of height, Hingham's use of diagrams and figures in zoning bylaws, and Scituate's zoning of multifamily district. Duxbury is the only town in the benchmarking that has a lower lot coverage ratio of 15% and Norwell interestingly had the fewest residential zoning districts (two in total). Cassie Malatesta will circulate her revised Table of Area Regulations document to the full working group.

The working group next discussed analysis of housing related definitions prepared by Woody Chittick. The working group agreed that categorization of housing definitions would be useful. Current proposal has eight categories. Katie Dugan suggested combining D. and E. into single lodgings category. In addition, the working group discussed the need for definitions and uses related to congregate care and other senior and group housing that is currently lacking in the zoning bylaws.

- A. 1- and 2-Family Dwellings
- B. Multi-Family Dwellings
- C. Mixed-Use Housing
- D. Transient (Short-Term) Lodgings
- E. Longer-Term (Indefinite) Lodgings
- F. Mobile Homes
- G. Congregate Facilities
- H. Low- and Moderate-Income Housing

Jen Oram and John Hallin continue to work on a Building & Inspections policy regarding the measurement of pre-construction elevation and height. They will have a draft ready for the February meeting of the Zoning Bylaw Working Group. Tom Callahan expressed some concerns about documenting procedures in policy instead of revising the bylaw directly, as policy is not as enforceable as bylaw in court. However, the working group agreed that this could be a first step in tightening some of the submission requirements while final bylaw language is finalized and voted at Town Meeting and approved by the Attorney General.

Finally, the working group also discussed that part of longer-term work will be revisiting 300: 12.4 Special Permits and 300:12.6 Site Plan Review. Tom Callahan noted that he has been working on a

revised outline for the Zoning Bylaws which would address how a number of areas of the bylaw are organized including general guidelines, core zoning provisions, and specialty zoning districts and overlays. He will circulate draft to the full working group for consideration.

Overlay Districts

Katie Dugan reviewed a matrix of the Overlay Districts (OD) that she had prepared which covers Article 10: Residential Cluster Development District, Article 16 Senior Multifamily Residence Overlay District, Article 17: Transit-Oriented Development District Overlay, Article 18: Special Permits Village Business District, and Article 22: Harbor Village Business Overlay District. The matrix looked at issues such as # of Applications Utilizing OD, Date approved, Types of Housing Allowed (Multifamily, Mixed Use, Affordable Housing, # of parcels and size requirements of parcels, Purpose, Key Housing Provisions, and Definitions Unique to Overlays.

- Residential Cluster Development District (RCDD) – To encourage a less sprawling form of development with less consumption of open space.
- Senior Multi Family Residence Overlay District (SMROD) – To provide alternative housing for a mature population which reduces burdens of property maintenance and is also affordable to persons of low, moderate or median income.
- Transit-Oriented Development Overlay District (TODOD) – To encourage a mix of moderate to high density development within walking distance of a transit station. The mixing of residential and commercial uses is fundamental to purpose of the overlay.
- Harbor Business Overlay District (HVBOD) – To allow and encourage the mix of residential and commercial uses and public access to the Harbor in the overlay district.
- Village Business District Special Permit (VB) – To allow for additional required performance standards in the Village Business district.

The committee reviewed initial recommendations related to overlay districts including:

- Consider eliminating aspects of the Overlay Districts which conflict with general zoning bylaws or other Overlay District provisions.
- Finalize the sunset status of Senior Multi Family Residence Overlay District (SMROD) in section 300:16.1(B).
- Eliminate redundant aspects of Overlay District (OD) provisions as underlying Zoning District and Zoning Bylaws still apply when OD is silent.
- Review definitions specific to Overlay District to make sure they are consistent with other housing definitions.

Jen Oram filed, on behalf of the Zoning Bylaw Working Group, a Notice of Intent for warrant article with the Town to formally sunset the SMROD. Katie Dugan will follow up with Town Counsel to draft warrant article language and informational summary for ATM 2021. Woody Chittick and Paul Colleary asked whether there were aspects of the SMROD worth saving, but the working group concluded it would be more appropriate to bring back concepts such as senior and affordable housing in a different context than revising existing overlay district.

Finally, The committee discussed whether Downtown Business district (DB) is still relevant given the limited number of parcels it covers. The working group asked Jen Oram to follow up with list of parcels including some on West Corner and Beechwood zoned DB.

Harbor Zoning

Peter Pescatore gave an update on the work in progress related to strategy statement on Harbor Zoning. Peter Pescatore, Paul Colleary and Jack Creighton will be meeting later this week to begin work on this longer-term project. Woody Chittick circulated to the committee additional work he had done related to parcels around the Harbor including: harbor area of regulations, harbor uses, harbor lots by district and street.

The committee agreed that land size and zoning issues will continue to accelerate as some critical parcels around the Harbor are likely to change ownership in the next decade. The Zoning Bylaw Working Group will work to develop strategy statement and list of issues which it will share with the Harbor Committee, Infrastructure Project Working Group and the Select Board so other committees are aware of the work in progress and will update once the working group has specific Harbor zoning proposals.

Housing Options – ADU Bylaw

Woody Chittick shared, for a second reading, the ADU Recommendations Memo with the working group. The committee reviewed the following recommendations:

- Allow an ADU within an existing home to be “as-of-right”.
- Allow modification of an attached structure.
- Allow conversion of an existing (detached) accessory structure to an ADU.
- Restrictions will be added to prevent ADUs from being used as a short-term rental unit, by imposing a minimum tenancy of 180 days.
- Allow the ADU to be attached to the parcel of land
- Allow a separate outside entrance
- Change the net floor area restrictions to allow more flexibility to homeowners
- Once an ADU has been created, this unit cannot be enlarged
- Allow reasonable deviation from the stated conditions to install access and mobility features for disabled persons.
- Add a limitation on the number of bedrooms in an ADU to two

The committee asked that Woody Chittick follow up with the Board of Health and Sewer Commission regarding any wastewater management requirements in the Town regarding the addition of bedrooms associated with detached ADUs. The next step will be for Woody Chittick and Katie Dugan to review these preliminary recommendations with the Affordable Housing Steering Committee and Affordable Housing Trust to get their input on proposed changes to ADU bylaw.

Adjourn

The meeting adjourned at 2.00 pm. Due to Zoom platform issue, the Zoning Bylaw Working Group agreed to reconvene on Tuesday, February 2nd to finish the agenda items including Land Alteration and Administrative. Katie Dugan will coordinate a time and date which works for the members.

Documents

2021 ATM Warrant Article Notice of Intent_ZBWG_Land Alteration

2021 ATM Warrant Article Notice of Intent_ZBWG_Use Variance

ADU Recommendations_Final Edits_01.21.21

ATM 2021 Schedule_Draft

Benchmarking Matrix_Land Alteration_Trees

CitPetZoning Bylaw Land Alteration_2017

Cohasset Stormwater Management Bylaw

Stormwater Application for Project Review

Housing Definition Recommended

Housing Options Overview

Land Alteration Bylaw Language_2020

Overlay District Matrix_01.15.21

Overlay District Observations_01.22.21