

TOWN OF WASHINGTON

TOWN PLANNING STEERING COMMITTEE Meeting

Agenda Items

Saturday January 15, 2022

Time – 9:00 AM

Virtual: Zoom Meeting

Zoom Meeting Details:

Join Zoom Meeting on Computer, click here:

<https://us02web.zoom.us/j/88102044950?pwd=RGg3cjU0MVgrWWdxbkw4amRXdzRDZz09>

Or:

Call in: 1-929-0204-6099

Meeting ID: 881 0204 4950#

Passcode: 088871#

Passcode 088871#

In Attendance: Don Gagnon, Kent Lew, Dick Spencer, Carol Lew, Peter Matson, Susan Colgan, Josh Greene, John Fish, Tom Sadin, Allison Mikaniewicz, Don Campbell

- Quick Review 12/11/2021 Discussion:
 - Update – Progress on Housing Needs Assessment

DG: We got this far on the grid at the last meeting. Four weeks, in between we've been able to take a look at a lot of towns and ADU info. Ready to share that. I met with planning board to prep them. Gave them a copy of the state model. Had questions regarding this body, they are invited to join to see what's going on. I forwarded the info to them.

Been working on the website.

SC: Noticed in the Eagle, a piece on North Adams short-term rental rules, coming down hard on Airbnbs.

KL: A number of communities wanting to curtail and restrict short term rentals, finding short term rental is eclipsing long term rental opportunities. Where there is a housing need for labor force, short-term rentals are taking units off the market, making it harder to find affordable housing. We don't have a lot of rental housing, but we need to pay attention to what's

happening in larger communities. We are in a different place in the spectrum, but it remains to be seen. ST Rental different from ADU.

Becket is also entertaining that because it is creating neighborhood problems and out of towners getting upset.

DS: Giving permanent residents 100,000 exemption on assessed value, basically punishing second home owners.

JF: There are some ways that could benefit people of lower income who have lived in town their whole lives, the idea of creating an additional revenue stream through Short-term rentals, or giving them a break because they live here full time, I think it is a good thing.

KL: I had looked into opportunities to do that kind of differentiation across our residential assessments. There is a local option having to do with a certain kind of senior exemption that builds on the state's senior exemptions. Not a statutory exemption and we wouldn't get reimbursed for it. Involves creating a whole system. If I can find some documentation, I will pass it along to the finance committee.

The ST Rental tax is 6 percent to the state and 6 percent to the town. The town has the option to choose btwn 3 and 6 percent, there are a swath of larger towns that take the 3 percent and smaller that take 6. Will look up the number to see what we received.

JF: Short-term rentals taking away potential residential rentals, I had a bad experience owning a duplex and started ST Renting it, because there is not good legal support for people who want to be good landlords, if there is a way to support good residential landlords.

KL: The housing laws in MA can have a depressing effect on the market. I don't know what kind of tools we would have locally, falls to the housing court.

CL: I think pretty much just sympathy.

KL: Rental are not a big aspect of our market. I think we have 5 rental properties in town. If we tackle any ST Rental regs, just to keep that in mind.

Last year, we brought in \$7k, 7/2020 to 6/30/21, in ST Rental tax. That's not nothing in our town. It's just a handful of properties.

CL: Susan just finished about shared housing. The next up will be on Accessory Dwellings. Will want to talk to DG and alert our residents about what we are discussing here.

DG: In conversation with the planning board, I was astonished that they didn't know what we are doing. May want to tweak the messaging to make it clear these are projects associated with the steering committee. Telling people more and more about it would be helpful.

KL: Verbiage to put on Town Plan Steering Committee website. Which group owns the document? Another place we will be able to create public and available info. At least, it's there. You can't make people read it.

SC: The website is inviting, and certainly accessible. It should have a positive effect.

KL: It is my intention to actually have this go live by 2/1, and to feel confident enough about that by next week to write up a full page inset in the tracks, encouraging people to subscribe to new news items and urgent alert items. A website is only as good as people going there. If people subscribe to certain aspects, they will get reminded that there are things going on at the website. Select board minutes will get posted every week, can subscribe to that. Make more available and encourage people to use the tool.

TS: Impressed by the site, but I noticed I couldn't get back to home,

KL: I thought about putting a more obvious link. The little home icon in the top right, pretty conventional with people familiar with building websites: Clicking on our logo will always take you home.

The subscribe feature, if you subscribe to the Select Board minutes, you will get an email when they are posted.

SC: Great job, Kent.

KL: I wish I had read the Housing Needs Assessment before I sent it, a number of things I am not happy about. The suggestions seem cookie cutter and tone deaf. I had expected a data summary and a process by which we

would consider recommendations. Cookie cutter, some things obviously wrong, like improving broadband. Diving a bit more into it before we discuss in a substantive way.

JF: Is there a way to get more current data?

KL: Should we wait another month for the data for the 2020 census. Fairly broad strokes for time between census. In a large urban area, not a big deal, but in a small community, can be a large disconnect from reality. When we can get the rest of the report and can dig into the data, I will review it. Look at the core data to make sure we are using current data. The 2020 census pop for Washington went down to 494, the largest percentage drop in Berkshire County. All those numbers are out of date.

They do draw on local MLS activity and local listings, but I can't verify without seeing the full report.

DS: The only thing mention was there was nothing currently available.

KL: I did a quick look back over the deeds, not a lot, but there is activity. We know anecdotally, there is activity. If they are only drawing on Zilo, if only referencing availability, party to party direct transactions not captured.

JF: If in the past year, people bought properties for a million dollars, it would change the figures. The truth is hard to come by.

KL: In a small town, things like that can affect us. This happened in the town planning where Phil would come and say there aren't any rentals. I know for a fact there are at least four. Where are you getting your data? In a city like Springfield, four is a rounding error, In WA, the difference btwn none and some.

I want our conclusions influence the recommendations. We'll have to see how BRP thinks about it.

DG: Startling that we want good data and they can't get it. The convo we will have with Tom and Chris at BRP will be interesting.

KL: They are probably not expecting us to come back with pushback. They did not take advantage of the things we wanted, and had wanted to tell them.

Shall I bring up the grid?

I have two versions. The one Carol distributed. And we have Dick's which attempts to capture some of the same stuff in black, then mapped out thoughts on some of the rest of the grid.

DG: Dick's fills in some info we can work with.

KL: Let's take the size limitations swath. Dick is proposing that there is no distinction between an existing non-conforming and conforming circumstance. We had established a max size to be 75% of the primary unit or 750 sq ft minimum, if you do more, it can't be more than 75% of the primary unit. Does that distinction apply to both within and outside? Within, it's almost moot. Size limitation becomes a non-issue. There may be practical considerations, plumbing and septic, but I'm not sure zoning has anything to say about that aspect, within an existing dwelling.

DG: It's either not more than the greater of 750 sq feet or 75%.

KL: Carol's wording was clearer, whichever is greater.

DG: Accessory Dwelling Unit is subordinate. Putting that big of an addition on...

KL: If you start big and add big, you can still be subordinate.

DG: I think it's too large, what if you had a 3,500 sq ft house, 75% is a lot of room to add.

KL: A fair question, or is it something we want to limit. Or does it need special permit review.

DG: It would need to be by special permit.

KL: You're advocating there should be a smaller percentage by right and a larger percentage by special permit. What would be the smaller cut off.

SC: In Plainfield, it seemed so clear and easy, we could just adopt their system. Do you remember what their limitation was?

DG: I did another review around the county. Most often it was the 750 sq ft. In most towns, they call them Accessory Apartments. In towns with a much larger population, the controls were limited. It's that piece about being subordinate, if you were thinking about it, put it in, accomplish what it needs to do, you don't want to build this thing and we're doing this for these reasons, you'd have to plead your case, I would think 750 sq ft.

KL: I don't think there is a size restriction, if you are attaching it to your home, if you don't go into the setbacks, there's no limit and no special permits needed. We are not creating a backdoor to do something you can't do already.

DG: If you are building it as an out building, within an existing outbuilding, that has some issues with our zoning, if it's detached, and you're getting past this 750, it's a second home.

DS: Do we want to outlaw the possibility of an extended family having, effectively, a family compound, and severely limiting the size of most of their buildings in the compound.

JF: It seems like this could be used to skirt the 2-family house limitation. If you don't have the right frontage, you can't have a 2-family house. What would be the disadvantage to allow someone to have a 1,500 sq ft ADU if their house is 2,000 sq ft. Why do we want to limit that?

KL: We need to step back a minute and think about our broadest intention to allow ADU that currently isn't by right allowed. What do we want to consider by right, and what do we want to consider by special permit and what do we want to restrict? There is a principle that land ownership, hands off approach of our current zoning.

Do we need to guard against people creating several ADUs and bigger than 750, or is that not the intention of what we are trying to do?

PM: If you have 8 acres of property, you could build 2 houses.

KL: If you have twice the acreage and twice the frontage, you can have two homes, but it requires a special permit.

DG: I think it's a tenement, a two-family home.

KL: In order to have two single family homes, is there any allowance for that in our zoning.

CL: I am still fine with 75% or 750, whichever is greater, maybe having above 50% would be a way to solve that by special permit.

JF: That sounds reasonable. The special permit process, when I was looking into different options, when we were looking to relocate back here, the thought of having to go through a special permit process is a little intimidating.

SC: I don't have much sympathy for that.

KL: The nature of our zoning bylaws, we don't want it unless we all get to look at it first. It has a suppressing effect, the fact you have to go through a process. One of the larger things we should be looking at as a town planning committee, let's not make it too restrictive, there's no point in creating a bylaw if we put in a lot of restrictions.

CL: This special permitting process, whoever is doing this is already here, probably has some time. Which is different from someone considering buying a property. If someone is already there and has to wait a couple of months to see if they can make it as big as they want, I don't think that's a problem.

DG: The special permit process is a form, you put in what you want to do. The board gets that, they schedule a public hearing, allows for your abutters to come in and listen to what you are going to do. Let's consider the recent hearing in Hinsdale with the campground issue. A lot of input. In this case, everyone who abuts the property gets noticed, allowed to come in. If you were an abutter, and you were worried about your septic or your well or what was going to happen to the driveway. It does cost money, you pay for the permit and for the hearing being posted in the Eagle. About \$600 to publish in the Eagle twice.

KL: Correct to say that the purpose is to make sure the input from the abutters does not present a concern for the value of the abutters' property or the neighborhood. If someone says, I'm an abutter and I don't like it, that doesn't matter. You're listening for, this is going to impact my well water, or create an opportunity for activity in the neighborhood, or obstruct my view?

DG: Completely accurate.

JF: The general public doesn't understand that's how it works. People unloading their concerns about town. One neighbor said, This town is dying. Another said, They're finally buying the lot next door to them, because it's non-conforming. It all adds up to, if the intention is to create more development, the public impression of the special permit will suppress that.

SG: If you don't understand, you have to ask. It's the responsibility of a person who buys property here to get educated about how it works.

KL: If something is going to cause friction, it should be reviewed before it gets built. It is the responsibility of the town to make that intention clear. Here's what you can expect and here's the intention behind the process, just to make it clear that the intention is not to suppress development.

DG: (Responding to JF) Being on a town board, you are going to get some people mad. For that piece of property, if you look at why it was allowed, there is a huge history. That person was an abutter, they don't like what happened. The barbs can be bad, I understand his vitriol, but the decision was made based on what was presented.

CL: Could be a topic for an Insights Article, where we interview people who went through the process, and they didn't die. Show that it's not so scary.

KL: We're at a point in town, we have to look at how we as a town want to manage this aspect in a larger sense. We have a value that what you do on your property is what you do, not everyone is in your business. On the other hand, there are certain things I don't want my neighbors doing that impact on my property. We want to recognize there are points where things start to bleed out over boundaries and allow neighbors to have some say before it gets out of hand. The common perception may be that the town doesn't allow anything.

The purpose of the public hearing isn't to allow any neighbor to squash what you want to do. It allows an opportunity to be neighborly. What is a reasonable sense of what is allowable to our neighbors.

JF: SC what you said earlier, it's people's responsibility to research what is possible. There are a lot of people who won't do that.

SC: The website will make that easier.

DG: Will the website be able to broadcast meetings?

KL: Not in the short term. I have not explored the ability to embed live video through the website. People can come onto a Zoom meeting, an effort in that direction.

DG: Do you bring a computer in for the select board.

KL: I use a town laptop. We have an owl device, used in conference settings, a panorama view of the room and smaller views of people who have been speaking. A projector that shows what is on screen. The weakest link is that the mic doesn't pick up everyone in the room well. Working on additional mics, but that requires mixing technology.

DS: We should put the Zoom links on the website.

KL: We can include that as a link. When we post the agenda, would have a landing page.

SG: I am just curious, have you had a lot of people come to the select board meeting on zoom.

KL: No, but it has helped, with people who have weather or health issues to participate.

KL: In a non-conforming lot, the 50% may need to be reconsidered.

PM: Should there be a limit on the 50%, okay to build a 2,000 sq ft ADU with a 4,000 sq ft house?

SC: I third it.

DG: If you put something that big in, you will probably need an additional well and perhaps a separate septic, that's encroaching on a tenement, a two-family house. Some people may think and ADU being built to house their in-laws, maybe they are used to having a large home. The model bylaw from the state, where do you decide with a 2,000 sq ft ADU.

JF: Taxes.

KL: We want to address three basic possibilities, one a new avenue for senior aging-in-place circumstances, for people to look at Short-term rentals, and maybe, later, aging in place, and third, growth will increase the tax base (the last is a side benefit and not a primary reason for an ADU bylaw.

DS: What is objectionable about a 2,000 sq ft ADU. If I don't call it an ADU, I can put a 2,000 sq ft addition on the home. What are we objecting to.

KL: There are certain aspects of adding to your home that are allowed under the current bylaws. While we might have opinions about what feels too big, our bylaws are moot on that subject. It's not the place of an ADU bylaw to restrict additions.

DG: Once you write this, and once town votes on it, has to go to the AG. They hit us with a nimby last time, their reason it was four acres because the town of WA is full of rocks and needed four acres, and they bought it. What if nobody in MA has anything that big?

We're pushing a line, state wise.

JF: Can someone give an example of why an ADU would be too big. What would be bad?

TS: I read through the bylaw and some case studies. It seems to me this is getting too complicated. The underlying thing was not to restrict it, or you will just turn people off. From Northampton.

Number of tenants restricted to 3, Square footage is 900.

KL: We may want to look at the general tenor and extend of other ADU bylaws. If we are going to deviate greatly, we should have a good reason. Perhaps we should be looking at what others are doing, although this has been helpful with broader conversations about what we want and what we don't want.

There are occupancy restrictions and the 900 was a maximum. Most models envision a fairly small maximum. This is meant for those three options, an apt allowing for cost sharing, or ST rental, and allowing opportunity for construction, opportunity for increase in tax base without entirely new homes.

DG: The ADU Bylaws deal in that small size, written specifically for getting a one- or two-bedroom thing in your house. The intent is more that, the sizing is minimal. The model does say you don't want to put any restrictions on this thing. But when you look at what's been done. The intent is to do exactly what it is, an accommodation more than a palace.

DS: I think of my own situation. Potentially, I could get old. I could get even older. And want my other son to build a home on the property, have him move into this house and I move into an accessory unit, but you'll get me out of this house kicking and screaming. He lives in a 1,500 sq ft house now. If I limit him to build a house on the property that's smaller than what he's currently in, he will object. So, I think we have to be careful.

Why would you limit occupancy, other than septic considerations?

DG: For the most part, people doing this may have a 1,500 or 2,000 sq ft home and they will put an attachment on it, the bulk of the people doing this, perhaps, don't have a lot of land and a big home, perhaps.

KL: Occupancy will be restricted by a number of factors. What is the reason it needs to be enumerated in a bylaw? Perhaps it's a way of putting a short-term rental curtail on it. Yes, you can have one, but it's not meant to be a place for 10 college students, or refugees in a room.

Dick brings up a realistic personal family scenario, many of can look at that and say, yes, that's a good point, but do those circumstances need to be accommodated by the ADU Bylaw.

DS: What we're talking about is putting two units on one lot, or, if it's not allowed, break off a separate lot. It's a matter of preference.

DG: The purpose and intent:

Provide homeowners to stay where they are. Add moderate rental units.
Develop housing units in single family neighborhoods. Disability housing.
Maintain character of the neighborhood.

KL: So, for the purposes of the ADU, maybe we need to narrow our focus, not to say we don't want to address the Kennedy compound situation, which could be separate.

JF: No shortage of opinions. I still haven't heard why it is potentially a problem for an ADU to be more than 1,500 feet.

KL: We can take a narrow by right definition of ADU. There is a process by which the AG had to review and approval. Typically, there have been in the past, situations where the AG has said, I'm sorry, you can't do it this way. There is oversight. Given that other ADUs are driven this way, it creates a certain perception of what is viewed as inbounds and out of bounds.

CL: The AG thing, I suspect that having a larger AD will not be as objectionable as saying, nobody can build a lot on less than 4 acres. They may be okay with it. I want to point out that we are only on the second block, what is going to happen when we get to the more restrictive part. Maybe what we can do it 750 or 50% of the primary unit, No greater than 1000 sq feet by right, than the rest by special permit.

DS: We ought not be looking to make sure we don't do anything that hasn't been approved. We should look for cases that have been rejected. Just because it hasn't been done before is not a good reason for not doing it. The 50% was to make sure it was subordinate.

KL: Leave it up to the planning board to craft it in an easily understood language. Capture our intent, where those parameters are, then how to structure it in as simple a way as possible.

A minimum and a maximum and a 50% has a purpose.

JF: Smaller than existing unit and no larger than 1000 sq feet.

KL: If someone put a 1000 sq ft ADU onto their primary, there are not a lot of circumstances where it would be the case.

DG: If you replace the word smaller, with It must be subordinate in size to the primary, that leaves the decision to the building inspector to determine what subordinate means, allows him to decide based on the house.

KL: Is that a fair thing to put on our building inspector?

DG: I will lay out ten towns and what they have to say.

PM: Define subordinate for us?

KL: That is the issue, it's a fuzzy word. It becomes subjective and depends on who the building inspector is and his or her relationship with whomever comes forward.

DS: Would the AG generally approve fuzziness like that, or do they want it to be more specific.

KL: The AG has passed plenty of things with fuzzy language.

29th next meeting. Is this format working? Is it preferable?

DG: I can hear everybody better.

KL: We can see each other's full faces. We don't have masks or echo of the town hall. We will do something similar format in two weeks. Don will put together a data grid from comparable towns. See if there's anything we want to adopt whole cloth or modify.

CL: If they could be towns that have relevance to what we face here.

SC: Plainfield, Ashfield and Windsor were helpful.

KL: Don is looking at hilltowns in the area and looking a little further than Berkshires.

When we get out to new structures, are we ready to keep this?

JF: If we just say up to 1000 sq feet, simpler, don't need 750.

DS: I object to autofilling across this, once we get to detached, we have a different situation.

DG: We should wait to see what other towns are doing, with detached. In non-conforming and conforming lots, this would apply equally.

KL: Making all these boxes under Attached to Existing Dwelling black.

JF: The tiny house concern would be an issue of the number of ADUs, rather than the size.

KL: Am I hearing a consensus that we no longer need a minimum.

SC: Maybe we should share the information on model bylaws for ADUs with JF.

KL: Do we want to be sure that people can't have an ADU that is tiny? I'm not sure that we, as a matter of zoning, need to restrict that. There will be other natural constraints on it.

CL: I follow a bunch of tiny houses on line and you can create a nice living space with a very small space. They will have to go through so much for septic, they are not going to do that for a tiny room. We should be discussing "Any number," that is a different discussion.

DS: I didn't think it made sense to be more restrictive on an attachment to within an existing dwelling.

KL: Another meeting to discuss the number of units. We'll have to thrash that out in another meeting. We'll look to see how other ADU bylaws address this. And if there are other parameters, we might need to add to the grid.

I will forward the copy of the grid, and will forward to you, John, the handouts so you have that material.

- Working Session:
 - Continue developing the Accessory Dwelling Units Bylaw.
 - BRPC Progress Reporting
- Other:
 - Update - Website Content
 - Next Steps

Don Gagnon – Co-Chair Town Planning Steering Committee
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