



# MANCHESTER-BY-THE-SEA

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PLANNING BOARD • TOWN HALL  
Manchester-by-the-Sea, Massachusetts 01944-1399  
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## Minutes of the Planning Board

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Monday, February 27, 2023 6:00 p.m. Room 5, Town Hall Hybrid Meeting with Public on Zoom

<https://us06web.zoom.us/j/86389861741?pwd=TkVPMEtHcG53NXdZRGRYT3BNZko5Zz09>

Meeting ID: 863 8986 1741 Passcode: 500124 Dial In: 646 558 8656

**MEMBERS PRESENT:** Ron Mastrogiacomo, Chair, Sarah Creighton, Susan Philbrick, Chris Olney, Christina Delisio, and Mary Foley

**MEMBERS NOT PRESENT:** Laura Tenny

**SELECT BOARD MEMBERS:** Becky Jaques, Ann Harrison, and John Round

**STAFF PRESENT:** Town Administrator, Greg Federspiel, Interim Town Planner, Betsy Ware, PB Administrator, Gail Hunter

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Mr. Mastrogiacomo called the Planning Board meeting to order at 6:00 p.m.

**Acknowledge Receipt of Correspondence** – Correspondence was received from Ms. Iovanni and Mr. Jay.

**Public Comment** – There was no public comment prior to the Public Hearing this evening.

### **Public Hearing Amendments to MBTS Zoning By-Laws (6:30 p.m.)**

#### Annual Town Meeting Proposed Warrant Articles:

- Senior Housing By-Law (New Section 9.4)
- Adult Entertainment (New Section 8.6)
- Amendments to Administrative Zoning By-Laws (Section 12)
- Amendments to Accessory Dwelling Unit By-Law (Section 9.1)

Prior to opening the Public Hearing, the Board discussed edits to the above proposed Zoning By-Laws and received clarifying updates from Town Planner and members of the Board.

*Mr. Mastrogiacomo moved to open the Public Hearing indicating that a Public Hearing Notice had been published in the Cricket on February 10, 2023 and February 17, 2023 and printed copies of the proposed Zoning By-Law changes had been made available in the Town Clerk's office and in the Library. The Board voted unanimously to open the Public Hearing.*

Ms. Creighton walked Board members and residents through a Power Point presentation focusing on the four Warrant Articles.

Ms. Creighton clarified that the Public Hearing was on Zoning By-Law changes, it was not about MBTA Multi-Family Zoning or Cell Signaling Technologies. She defined Zoning and indicated that over time the Town's Zoning By-Laws had been changed and modified to address specific issues. A little over four years ago the Board committed to work on clarifying the By-Laws. She added that the Town's Master Plan had identified issues for the Town to address in the Zoning By-Laws and that work has been part of the proposed changes.

The Annual Town Meeting warrant will hopefully address four Zoning By- Law updates. The changes include:

- New Senior Housing By-Law (New Section 9.4)
- Adult Entertainment (New Section 8.6)
- Amendments to the Administrative Zoning By-Laws (Section 12)
- Amendments to the Accessory Dwelling Unit By-Law (Section 9.1)

The Board opened the meeting to questions.

Lisa Bonneville, 23 Woodholm Rd. – asked the Board to require all senior housing to be ADA compliant. Mr. Olney confirmed that was part of the By-Law.

Mr. Mastrogiacomo stated that at this time the Board is taking questions on the proposed Administrative changes.

Mr. Gates, 2 Desmond Ave. asked about the Select Board being a potential granting authority and asked when that would happen. Ms. Ware stated that under MA General Law there were several authorities with the power to grant Special Permits including: ZBA, Planning Board and the Select Board.

Steve Kelly, 355 Summer St. asked what happens to residents who do not follow the permitting process, specifically mentioning ADU's. Ms. Creighton pointed out that the Planning Board was not an enforcement Board and any problems like Ms. Kelly was referencing should be directed to the Building Inspector and if there is a complaint it should be put in writing.

Sandy Rogers, 82 Old Essex Road stated she thought it was a good idea for the Planning Board to have alternate members. However, she believes the members should be elected or appointed with a 100% vote of the Planning Board and required to participate in meetings. Mr. Federspiel added that an alternate member of the Board is in a good position to fill a vacancy if one should arise, and the filling of vacancies is a joint vote of the Select Board and the Planning Board.

Donna Furse, 8 Blossom Lane stated that the Board has never had alternate members why now? Mr. Mastrogiacomo pointed out that a recent special permit hearing was delayed because of a resignation and refusal. Ms. Furse believes the alternates should be elected.

The Board moved forward and took questions and comments on Accessory Dwelling Units.

Shannon Erdmann, 41 Walker Road asked about the logic of going from requiring a double lot to a single lot. Mr. Olney indicated that the objective is not to build a new structure but to include the ADU within the existing structure.

Sandy Bodmer-Turner, 89 School St. asked a clarifying question about building within a non-conforming lot. Mr. Olney stated that is why a Special Permit is required, adding that if there is a non-conforming structure any addition would need to be on the conforming part of the lot.

Following additional discussion the Board concluded that a Special Permit would require that an ADU would need to be within the minimum lot size of the District.

George Davis, 23 Woodholm Rd., asked why this is not tantamount to allowing every house to become a two-family house. Mr. Olney stated that an ADU is meant to be like an in-law apartment, same address, within the same structure. Ms. Creighton read the definition of an ADU with specific information, including size, sq. footage compared to the existing home and additional information that limits the unit to being part of the existing home. Mr. Davis was satisfied that ADU's do not turn every home into a two-family home.

Mr. Federspiel noted that only allowing an ADU on a conforming lot did not make a dent in the Town's need for diversity in housing.

Isabella Bates, 2 Masconomo St. added we are not discussing adding a tiny house someplace on your lot we are discussing reconfiguring your house.

Brian Miller, 92 School St., asked for clarity around the age of the house. Ms. Creighton replied that the age of the home starts when an occupancy permit is granted.

David Lumsden, 18 Woodcrest Rd., asked what kept an ADU from becoming an Air B&B, indicating that anyone can reside in the ADU. Ms. Creighton stated that the existing By-Law is not specific about who is allowed to reside in the ADU, and the new By-Law makes no change.

James Latham, 25 Sea St., made several references to the Master Plan and maintaining the neighborhood character. He asked the Board to keep that in mind as they proposed changes to the Town.

Tom Durkin, 20 Harbor St., suggested that two years was too short a period of time and it should be extended. Mr. Durkin added that the character of the Town was important to preserve.

Chuck Furlong, 19 Ocean St. stated that there were two examples of ADU's on Ocean St. and they are both larger than 1,000 sq. ft. Ms. Creighton stated that she was aware of one structure and the building permit noted it was for employee housing. She believes the other example on Ocean St. is also for a separate house and neither fell under the ADU guidelines.

Sarah Pearce, 9 Friend St., asked what it meant to the Planning Board to preserve the Character of the Town. Ms. Creighton recognized that was an important question but not what was being discussed this evening. Ms. Pearce stated that the proposed zoning changes are not known by most of the residents in Town and it is difficult to access the information.

Jack Keefe, 8 Victoria Rd., agreed that it was difficult to access the information on Zoning changes.

Sandy Bodmer-Turner, 89 School St. believes it is important to make it possible for ADU's to exist in all Districts regardless of lot size.

John Jay, 18 Sea St., stated that information being available in 3 weeks does not provide enough time for residents to be informed when Annual Town Meeting is in 5 weeks.

### Adult Entertainment

Katarina Gates, 2 Desmond Ave., asked if the Town had a problem with Adult Entertainment. Ms. Creighton replied that the regulations are proposed because the Town currently has no regulations and to avoid having problems regulations need to be in place.

There was no further discussion on Adult Entertainment.

### Senior Housing

Donna Furse, 8 Blossom Lane, suggested splitting the By-Law one for residential districts and one for the LCD. Ms. Creighton asked if Ms. Furse would agree that the scale of senior housing in residential districts be limited. Ms. Furse agreed.

Sandy Rogers, 82 Old Essex Road, stated that the Board was changing zoning to be commercial in every district, which is inappropriate. Ms. Rogers also asked about the requirement that a person living in Senior Housing be over 18 years of age. Ms. Foley replied that was included requiring the principal resident to be over 55 and no resident younger than 18 years of age. The 18 requirement would ensure no impact on the schools.

Isabella Bates, 2 Masconomo St. stated that the Planning Board will require a Special Permit and she believes the community can trust the Board not to approve a Brooksby Village in every district.

At this point in the Public Hearing questions were asked and answered regarding the Town's sewer capacity and the impact Senior Housing would have on that. Mr. Federspiel addressed the question assuring residents that the Town does have the sewer capacity to manage current needs and what is being proposed.

Ms. Creighton reminded residents that the hearing is about four proposed By-Law changes.

*Mr. Mastrogiacomo moved to close the Public Hearing; Mr. Olney seconded the motion. The motion passed unanimously.*

### Finalize Recommendations for Warrant

Following a brief discussion, the Board moved to approve Adult Entertainment.

*Ms. Creighton moved to approve Adult Entertainment Section 8.6 as amended, Mr. Olney seconded the motion. The motion passed 5 affirmative and one abstention.*

Amendments to the Accessory Dwelling Unit By-Law (Section 9.1) was discussed by the Board. The first issue addressed was the number of parking spaces required. The By-Law for ADU's currently allows for 4 parking spaces. Mr. Olney pointed out that a two-family home is required to provide 3 parking spaces.

*Ms. Creighton moved to approve parking for ADU's to the same number of spaces currently allowed for with a two-family house. Ms. Philbrick seconded the motion. The motion passed 5 affirmative and 1 no.*

*Ms. Creighton moved to change section 9.1.2.2A to state the lot size meet the minimum lot size as determined by zoning regulations. Ms. Philbrick seconded the motion. The motion failed to pass 3 no and 3 yes.*

*Mr. Olney moved to leave the current language in the proposed By-Law as written, Ms. Creighton seconded the motion. The motion passed with 4 affirmative votes and 2 negative votes.*

*Ms. Foley moved that section 9.1.2.2B be changed from two years to five years since occupancy; Ms. Creighton seconded the motion . The motion passed unanimously.*

*Mr. Olney moved to amend section 9.1.2.2D requiring that either the primary or secondary unit should be owner occupied and the second unit to be leased for at least 12 months pursuant to Planning Board regulations. Ms. Creighton seconded the motion. The motion passed 5 affirmative votes and 1 abstention.*

### Administrative Zoning By-Laws (Section 12)

The Board discussed the appointment of alternative Board members. The Board concluded that the proposal as it appears in the current Section 12 will remain the same.

*Mr. Mastrogiacomo moved that the appointment of Alternate Planning Board members be with a joint vote of the Select Board and the Planning Board. Mr. Olney seconded the motion. The motion failed to pass with a vote of 4 opposed and 2 in favor.*

Following the above vote, the Board discussed that the word staggered had been removed from the previously approved document. Ms. Creighton concluded that Town Counsel made the change. The Board would prefer that Section 12 read appointment of the Board for a 3-year staggered term.

*Ms. Creighton moved to add the word staggered back to Section 12, Mr. Olney seconded the motion. The motion passed 5 members voting affirmatively and one member voting no.*

Following a lengthy discussion on violations, fines and site plans the Board concluded that the following changes would be made to Section 12.

*Ms. Creighton moved to add upon conviction, prepared and stamped plan and inserting or between by Dover or required by MA Law. Mr. Olney seconded the motion. The motion passed 4 members voting affirmatively and two members voting no.*

### Senior Housing

Following a discussion on changes adding deed restriction, comprehensive open space definition and accessibility requirements the Board voted to correct the size of units from gross square feet to net square feet.

*Ms. Creighton moved to approve Senior Housing as amended, Mr. Olney seconded the motion. The motion passed 4 members voting affirmatively and two members voting no.*

### **MBTA Communities Multi-Family Zoning Districts – Section 3A**

Mr. Olney and Ms. Philbrick will serve on behalf of the Planning Board on the MBTA Task Force.

## **Harbor Management Plan Working Group (Urban Harbors)**

Appointment July 2023 – July 2024, 7-9 Member Group (Monthly Meetings, TBD)

Ms. Creighton has accepted the nomination to serve on the Harbor Management Plan.

### **MAPC Preliminary Traffic Study Report Discussion –**

A study presentation will be made in March with discussion during that meeting.

### **Rules & Regulations for Special Permit Site Plan**

Ms. Ware is working on updating the rules and regulations for the Board. Ms. Delisio indicated that she, Ms. Foley, and Mr. Olney were the Board's subcommittee for Rules and Regulations and would start meeting on Wednesday mornings.

### **Approval of Regular Meeting Minutes 12/12/2022**

*Mr. Mastrogiacomo moved to approve the meeting minutes for December 12, 2022. The minutes were approved.*

- **Other Matters, as may not have been reasonably anticipated by the Chair.** There were no additional matters to discuss this evening.

*Ms. Creighton moved to adjourn the meeting; Mr. Olney seconded the motion. The motion passed unanimously.*