

**Advisory Committee Meeting  
Juliani Room, Wellesley Town Hall  
Wednesday, April 3, 2019, 7:00 p.m.**

Those present from the Advisory Committee included Jane Andrews, Julie Bryan, Todd Cook, Rose Mary Donahue, Mary Gard, Jeff Levitan, Bill Maynard, Paul Merry, Dave Murphy, Betsy Roberti, Tom Skelly, and Andrea Ward.

Tom Skelly called the meeting to order at 7 p.m.

**7:00 p.m. Citizen Speak**

There was no one present for Citizen Speak.

**7:00 p.m. Update on Delanson Circle/148 Weston Road Projects for May 13 Special Town Meeting**

Tom Harrington, Town Counsel, and Meghan Jop, Executive Director, were present.

- Delanson Circle was originally proposed as a 40B with 95 units and then reduced to 90 units.
- 148 Weston Road was originally proposed as a 40B with 55 units.
- Both are pending before the Zoning Board of Appeals (ZBA) after initial state approval.
- Town staff/Board of Selectmen/developer/Town Counsel trying to reach middle ground to reduce the number of units at both projects.
- Proposing modifications to the Residential Incentive Overlay (RIO) District to reduce the scale of the projects.
- For the Weston Road project, there will now be 25 market rate units (max 58 bedrooms). Developer has put property at 140 Weston Road under agreement and will use back part of property as part of project; about 82,000 square feet in total now for project. Publicly accessible courtyard and street access.
- For Delanson Circle, will be reduced to 35 market rate condominiums (max 75 bedrooms); two properties on Hollis Street will be renovated into four affordable condominium units. Will be a U-shaped building with three stories over a 60-space garage; 10 exterior parking spaces; 36 feet high (residential height); “green” roof on 1<sup>st</sup> and 2<sup>nd</sup> floors.

A question was asked whether, viewed from Linden Street, the Delanson Circle project would appear to be a three-story building: Yes.

A question was asked whether there are plantings on the green roof: The green roof will allow abutters to look down and see green rather than roof structures; the setbacks will also allow for additional green space; the exterior design has not yet been finalized.

A question was asked as to how many units at Weston Road would be affordable: There will be 2 affordable units (condos) in the future made from the current house at 140 Weston Road.

- Proposed RIO Zoning Bylaw and Zoning Map amendments
  - This district exists in Lower Falls and facilitated the construction of Waterstone
  - Trying to expand applicability of the RIO to allow it to be overlaid onto the Single Residence and General Residence Districts

- Proposed RIO projects would (1) require a Zoning Map amendment (two-thirds vote) at Town Meeting to go forward and (2) proceed through the typical Town review/permitting process
- Proposed amendments would reduce minimum lot size (from 2 acres to about an acre), reduce allowable height (maintain residential height in residential districts), make some sign adjustments, and expand special permit findings

A question was asked if the RIO district is governed by Massachusetts law: No, the RIO is specific to Wellesley. A follow-up question was asked if there are any conflicts with Massachusetts law: There are no conflicts.

An additional question was asked whether there were any unintended consequences at Waterstone and whether the Town wishes it had done something different with the zoning there: No.

A question was asked as to what led to the new minimum RIO lot size of 45,000 square feet: Wanted a dimension in the acre range that would fit the projects at issue here and stay within the density guidelines established by prior Town Meetings (e.g., Wellesley Square, Linden Square) of approximately 24 units/acre; the density limits of the RIO provisions are not being modified.

A question was asked as to how the Delanson Circle project will meet the RIO's open space requirements: The developers will need to propose public amenities to meet the criteria (e.g., landscaping with benches).

A question was asked about the affordable housing units at the Weston Road projects being less than 10% (25 units plus 2 affordable) and whether there has been any discussion about increasing the number of affordable units to get up to 10%: These are negotiated terms; if you add both Delanson Circle and Weston Road projects together, you do get to 10% affordable (60 market rate and 6 affordable). A follow-up question was asked whether, since the Weston Road project is being built while the house at 140 Weston Road is still subject to the life estate for the current homeowner, there will be a period of time with no affordable units at the Weston Road development: Yes.

A comment was made that the 10% affordable percentage for the two projects may not make increased progress toward meeting the Town's goal but at least maintains the status quo.

A question was asked as to who is responsible for upgrading the Weston Road affordable units: Once the life estate in the house terminates, the developer is responsible for renovating the house into two units that are comparable to those in the main project.

A question was asked as to how the affordable units work: The Town becomes a partner with the state Department of Housing and Community Development (DHCD) in setting up a regulatory agreement; then develops a preference system/lottery; Town did this recently with the affordable units at the Belclare.

A question was asked if the developer has to post bond in order to show financial stability to follow through with the affordable units: That mechanism is still being worked on and further information will be presented; could be a bond or funded through the condominium association. A comment was made that pre-funding is essential for holding the developer accountable for the affordable units.

A question was asked about the existing homes on Delanson Circle/Hollis Street and whether any of the single family and two-family houses there are currently counted in our Subsidized Housing Inventory: Yes.

A question was asked as to where discussions with the neighborhood stand: The neighborhood has reached an agreement with the developer; private agreement between private individuals; Town has seen a redacted version of the agreement with the goal of ensuring that nothing in their agreement would conflict with the Town's Development Agreement; neighborhood agreement is specific to the Delanson Circle project.

A question was asked as to the number of affordable units in Wellesley: Currently about 6.3%; about 400 units are Wellesley Housing Authority units; other units distributed throughout Town.

A question was asked if the Delanson Circle and Weston Road projects are 40B projects: They were originally, but redesigned projects are not; redesigned projects will go through the Town's normal review process. An additional question was asked as to how much control the Town has over sustainability issues, as these are high-density buildings with high-energy usage. For example, could the Town require EV charging stations or certain amounts of insulation: Zoning cannot dictate building or construction methods; as part of site plan review, permitting authorities could ask questions, but there is no provision to mandate outcomes; typically, given clientele/purchasers of these kinds of units, could expect to see EV charging.

A request was made to get input from the neighbors about the projects.

Ann Marie Towle, 7 Oakencroft Road, spoke in support of the redesigned projects. She has been involved in the project since the 40B at Delanson Circle was first proposed in June 2017. An informal neighborhood association (College Heights Neighborhood Association) was formed; about 140 families on mailing list; includes all direct abutters and other people from the area that wanted to be involved. The association has been involved in every step since the original 40B proposal; representatives have attended every meeting of the Zoning Board of Appeals, Board of Selectmen, Planning Board, etc. The association has worked with Town representatives and the developer to try to develop alternatives to the 90-unit and 55-unit original proposals. The neighborhood association is very supportive of the condo proposals, which will reduce height of buildings; reduce number of units; have less resident turnover; have fewer cars; include concessions from the developer about sidewalks, etc. The association believes this is the best solution for the neighborhood and has entered into a memorandum of understanding with the developers. Association recognizes that if the redesigned projects are not approved, neighbors and Town will have little control over the 40B process.

A question was asked whether the association has also been involved with the Weston Road project: Yes, association has been involved, but to a lesser extent. Not direct abutters, but very concerned about area traffic. Believe that the reductions in the Weston Road project are a really good solution; height of building came down significantly and the building will be set back from Weston Road.

An Advisory member who has followed the process for the past two years commented that the development team has been responsive and good listeners.

A question was asked what is behind the property on Weston Road: The North 40.

Before concluding, the discussion turned briefly to the Wellesley Office Park project. A comment was made concerning the potential concentration of affordable units at WOP and the potential stigma that could be associated with these units, such as occurs currently at Barton Road: 25% of the units at the Wellesley Office Park site will be affordable (vs. 100% at Barton Road); units will be distributed throughout the building; differences in methodology of determining affordability for this project vs. Barton Road; Barton Road low-income transitional housing model is not a model that is typically used

anymore; Community Preservation Committee allocated funds to do a study of Barton Road; Town is working on modifying the model there to allow more mixed income.

### **7:55 p.m. Liaison Reports/Administrative Matters**

#### Jane Andrews/SBC

- At March 21 meeting there were some initial cost estimates presented about swing space and early/late Hunnewell
- If swing space were to be located at Sprague with 12 modular classrooms, the cost would be \$7 million for the modulares and restoring the field back to grass at the end
- Modulares at a mix of Sprague and Schofield would be \$8 million
- Using a 5% cost escalator, the cost of delaying from an early to a late Hunnewell scenario would be \$9 million in construction funds; if the old Hardy School is used, then it would cost \$1 million additional
- Other options are being considered such as earlier redistricting from seven to six schools, which would require some additional modulares, and is estimated to cost \$3 million
- Cost estimators have been instructed to get more information
- School Department is also looking at “internal” swing space and distributing Hunnewell students on a class by class basis to other schools; this wouldn’t have the cost associated with other options but is complicated

A question was asked about the MSBA determination that the current Hardy/Upham buildings are unfit for educational purposes and how that affects their use as swing space: Over the long run the buildings are unfit but could be used for a couple of years.

A comment was made that when the two new schools are built, there will be six schools instead of seven and the students will be redistricted. If Hunnewell is torn down, then we still have six schools so there must be some way to redistrict early while the new Hunnewell is being built. An early Hunnewell will eliminate problem of cost escalation. A comment was made in response that the School Department and School Committee have concerns about disruption to communities and families; not hearing a lot of excitement about the Sprague modular plan.

### **8:00 p.m. Discussion of Ongoing Annual Town Meeting (ATM) Matters**

Victor Panak, Interim Planning Director; Catherine Johnson, Chair, Planning Board; Patty Mallett, Member, Planning Board; and Kathleen Woodward, Secretary, Planning Board, were present.

- The Planning Board (PB) temporarily recessed from its own meeting upstairs in the Great Hall and came to update Advisory and answer questions about some recently approved changes to the ATM zoning articles (Articles 29, 30 and 32).
- Going forward, the PB needs to educate the general public and Town Meeting Members on the purpose of zoning, as it appears people are looking to cure all with zoning. However, zoning creates the definition for a use of land and the decision makers are the various Boards.

#### Article 30 (General Provisions section of Zoning Bylaw)

- There was a renumbering problem in original article/motion language due to certain sections in existing Bylaw being deleted; “26a” needs to be changed to “26” and “29” needs to be changed to “27.”

A comment was made that Advisory needs, and had asked in February for, a redlined copy of the changes contemplated by Article 30. There appear to be a number of differences from the existing Zoning Bylaw, not just a reorganization of existing provisions. There was a brief discussion about the difficulty/frustration Advisory experienced this year in analyzing and evaluating the proposed zoning articles, due to issues like this as well as the PB's reluctance to present the proposed changes in detail to Advisory until after the PB holds its own public hearing, which is not generally until February. The PB feels that it is important to have the public hearing before coming to Advisory so that PB support for the proposed changes is known; Advisory acknowledges this but believes that presenting the proposed changes in detail to Advisory earlier, with the caveat that the proposals are contingent on ultimate PB support before they can proceed to ATM, will assist not only Advisory in understanding and evaluating the changes, but also the PB in seeing how ATM may view the proposed changes. An additional comment was made that changes get the attention of people and unintentional changes can have unintended consequences.

A question was asked whether the proponent of the motion to amend Article 30 is satisfied with the changes proposed here: Yes.

A question was asked about whether the reference in Section C, Purpose, item 10, to the Comprehensive Plan should be replaced with the Unified Plan: This provision is a requirement of the state; municipalities must have a comprehensive plan; Unified Plan has not yet been adopted; also, it is unclear if the Unified Plan states that it is the comprehensive plan; this needs clarification and follow-up with Town Counsel.

A question was asked if there is something equivalent to Subsection D, Applicability, in the current Zoning Bylaw or whether this is new: Section 1 is a standard section in all zoning bylaws; this is language used throughout Massachusetts. The PB was urged to be clear at ATM that this is an addition/change to the existing Zoning Bylaw; in the original PB February presentation to Advisory, the PB went through how things were being moved but did not identify the addition of new language; it was implied that the text was the same, with few or no changes. Advisory made its own comparison document after last night's discussion at ATM in order to understand what provisions were new, which ones had been moved, where the wording was different, etc. A comment was made that Town Meeting Members (TMMs) would find it helpful to see the redlined copy, as well.

There was a brief discussion that the PB is doing some beneficial things with these proposed changes, but there needs to be more information and transparency about the details/changes. PB feels it would be very tedious to provide this level of detail at ATM; Advisory suggests providing a tracked changes version on screen and also providing handouts/discussion in the Advisory Report in advance. A comment was made that ATM floor is a place for debate and questions and PB should be able to show where the changes have been made. Given that this year's Zoning Bylaw changes are the start of a proposed multi-year recodification effort envisioned by the PB, the experiences with this Article will be instructive.

#### Article 32 (new Outdoor Lighting section of Zoning Bylaw)

1. Concern was raised during ATM discussion that Section G.1 (Exempt) doesn't specifically list one- and two-family dwellings as exempt, even though intent of bylaw is to exclude those from coverage. A draft motion was made last night at ATM to add a subsection G.1(d) specifically exempting one- and two-family dwellings from the Outdoor Lighting provisions. PB is not going forward with this, however, as Section D, Applicability, already specifically states that "[t]he provisions of this Section shall not apply to one-family or two family dwellings, or structures and uses accessory to such dwellings." Town Counsel and proponent of original motion agree with decision not to make the suggested change.

2. Under current proposed wording of Section G (Exempt and Prohibited), it is possible that there could be some luminaires that are both exempt under G.1 and prohibited under G.2. Suggestion has been made to add the phrase “Unless exempt above” to the beginning of the text of Section G.2. This will eliminate any potential conflict between the two subsections.
3. Under Section H, Special Permits, the PB proposes to add an additional (fourth) finding upon which the ZBA may grant a special permit for lighting that does not otherwise meet the requirements of the Outdoor Lighting provisions. The new subsection H.2(d) would allow the ZBA to grant a permit if “[t]he proposed lighting is necessary for recreational or athletic activities conducted on land used for municipal or educational purposes.” This responds to concerns expressed by some TMMs that the existing special findings would not permit the ZBA to allow lights at the High School field.
4. A few typographical changes have been made:
  - a. Several are necessitated by the changes to Section H.2 (i.e., moving “or” from after (b) to after (c))
  - b. Also deleting the word “security” from the phrase “security/emergency call boxes” in subsection G.1(a)

A question was asked as to why it was necessary to add the new special permit finding for lighting for recreational or athletic activities, since the Outdoor Lighting bylaw adopts the NCAA standards (at the request of the colleges) – shouldn’t that provide sufficient lighting for High School athletic purposes: No concern about levels of luminescence allowed in the Outdoor Lighting bylaw; those will be sufficient. Concerned instead about potential light trespass and the allowable height of the poles; this new provision gives the ZBA flexibility to adjudicate, as they are supposed to do.

Support was expressed for the addition of the new proposed finding.

A comment was made that lighting for games could also be needed for public safety under existing finding “a” (the “proposed lighting is necessary to enhance public safety”).

A comment was made that adding this finding substantially changes the Outdoor Lighting bylaw; bylaw is intended to eliminate light trespass but this provision allows an additional exception for sporting events; can imagine some TMMs objecting to this.

A question was asked as to how outdoor lights are regulated now: There are agreements in Town every time a field is redone; the neighbors are always concerned about the lighting; as part of the special permit process, there is a public hearing, which allows all neighbors to express opinions. A comment was made that there needs to be robust community conversation about the lights on public fields. The bylaw promotes transparency, consistency and process.

A comment was made that Section E, Administration, seems to give the Design Review Board very broad authority to waive submission of information, especially item 1 (“[i]nformation identifying the location, orientation, height, and type of outdoor luminaires to be installed”) and whether that was intended: This is for information that needs to be provided to the boards; similar provision within Large House Review.

An additional question was asked under what circumstances grandfathering of existing projects would be voided and whether grandfathering runs with the property or the structure on the property: Existing luminaires would not be subject to this bylaw; therefore, just replacing light fixtures would not trigger minor construction.

A comment was made that there needs to be a clear understanding of when a property could lose the grandfathering that typically goes with the adoption of new zoning: All existing lighting is grandfathered

and a building would have to go through minor or major construction to trigger the bylaw. There was discussion about TMMs' questions about grandfathering. A comment was made that zoning only looks forward.

A request was made to clarify a minor and major construction project: Minor construction is anything that requires a building permit, such as a change in the exterior of building. A question was asked whether pulling an electrical permit would trigger this: No, it would not. A question was asked whether the High School lighting would even trigger the Outdoor Lighting provisions: Maybe the installation of the poles would trigger it; this needs to be determined; Planning is assuming it applies for worst case scenario purposes.

A comment was made about enforcement: The bylaw is about zoning and it's not about enforcement. The Building Inspector is the person to enforce this.

The Moderator, Mark Kaplan, was in attendance and made a request of the PB to prepare and distribute to TMMs before the next session of ATM a document highlighting changes from the current Zoning Bylaw.

A comment was made that zoning doesn't cover temporary lighting but the sign bylaw has regulations pertaining to temporary signage. Temporary lighting is not in this bylaw and was discussed in the context of construction and the need for bright lights. Lighting for construction activity is not subject to permitting but would be part of the construction plan.

#### Article 29 (Change from Roman Numerals to Arabic Numbers)

- There was a typo with a letter missing from the word "districts" in the online redlined version of the Zoning Bylaw referenced in the motion for Article 29; the redline has been fixed, necessitating a change in the motion to reflect the correct version date of the redline; no substantive change to the article/motion.

#### **9:20 p.m. Adjourn**

Jane Andrews made and Paul Merry seconded a motion to adjourn. The motion passed unanimously.

#### **Items Reviewed During the Meeting**

*Delanson Circle – Conceptual Plans, March 27, 2019*

*Weston Road – Conceptual Plans, February 22, 2019*

*Delanson Circle – Project Narrative, Embarc Architecture & Design, March 28, 2019*

*Weston Road – Project Narrative, Embarc Architecture & Design, February 22, 2019*

*Amendments to RIO, March 26, 2019*

*Redlined Existing RIO to March 26, 2019 Version*