

TOWN OF BETHLEHEM
Planning Board Meeting
November 29, 2023
Minutes

Present: Anthony Rodrigues, Linda Moore, Mike Bruno, Martie Cook, Kevin Roy, Alecia Loveless, Sean Gawlick and Jerry Blanchard

Anthony Rodrigues opened the meeting with the Pledge of Allegiance at 5:30 pm and then opened the public hearing for the minor subdivision and lot line adjustment for JCB Inns.

The Board reviewed the application's checklist for completeness. Mike and Alecia reviewed the list of abutters and public hearing notices.

Martie Cook motioned to accept the application as complete. Mike Bruno seconded followed by a unanimous vote, 7-0.

Gardner Kellogg reviewed the plans with the board. Mike Bruno motioned to accept lot line adjustment and subdivision as presented. Alecia Loveless seconded and the motion passed 7-0.

Anthony closed the public hearing at 5:45.

The Board reviewed the minutes from November 8, 2023. Martie Cook requested to make a change on page 3 by replacing *Martie would also like to add that there are some new uses being added and would like verbiage added regarding the fire code for each use*; with, Martie believes the intent is to align with the fire code.

Linda Moore motioned to accept the minutes from November 8, 2023, as amended. Martie seconded the motion, which passed 6-0. Alecia Loveless abstained due to absence.

Anthony Rodrigues reads the Public Meeting Notice and goes over the rules of procedure with the attendees.

North Country Council's Cathlin Lord joined the conversation to talk about the goal for the evening, which is to inform everyone on the changes the Planning Board is considering and hear the public's thoughts.

Following Cathlin, Kaela Tavares, also from the North Country Council, gave a summary of the Amendments.

Amendment 1 reduces parking from 2 spaces to 1 space for accessory dwelling units that are less than 1000 sq ft to make it easier to provide an ADU, while reducing stormwater runoff and visual impact.

Amendment 2 would allow a single-family home to have one detached accessory dwelling unit (ADU) up to 1,000 sq ft.

Amendment 3 would make it easier to convert existing buildings to multi-family dwellings and would allow the building coverage for multi-family dwellings in District 1 Main Street and District 1 to be 25% like all other land uses.

Amendment 4 would increase the housing opportunity by allowing dwelling units above first-floor businesses.

Amendment 5 would add Cluster Development as a Permitted Use everywhere except District 1 Main Street and the Landfill District, provide additional guidance for the Planning Board when reviewing proposed Cluster Developments, and provide a density bonus to encourage developments with homes no larger than 1,200 sq ft.

Amendment 6 would add Short-Term Rentals as a Permitted Use in all homes with some basic health and safety requirements, define renting one or two rooms in an owner-occupied home to be an accessory use not requiring any special permission, make Bed and Breakfast a Home Business, and provide a definition of all other Public Accommodations with which would now include Campgrounds.

Amendment 7 would remove Article XVII Impact Fees in its entirety (has never been used), along with the Definitions in Article XXII that are only used in that section of the Zoning Ordinances.

Tara Bamford, the Town's Planning Consultant, joins the conversation to take a deeper dive into the proposed amendments and take public comment.

Amendment 1

This amendment makes it easier for the addition of an ADU by reducing the parking requirement for ADU's that are 1000 sq ft and reduces the storm water runoff. The definition of Gross Floor Area has also been added to the amendment because it is important how we define 1000 sq ft.

Mike Bruno is concerned about parking as the public already sees parking as an issue and feels we need to get the message out that this is not commercial issue, but rather for residential usage.

Amendment 2

Would open the door for detached accessory dwelling units. This is another example of where the town needs to keep size in mind. This will be achieved by defining Accessory Dwelling Unit, detached as follows.

Accessory Dwelling Unit, detached: A dwelling unit in a detached accessory structure such as a guest cottage, barn, or garage, on the same lot with a single-family dwelling, that provides independent living

facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, containing no more than two bedrooms and no more than 1,000 sq ft of gross floor area.

Tara goes on to explain that this use would not be allowed in every district. A Special Exception requirement would be added for District 1 Main St and District 1 because it may not be a good fit for the village area.

Mike received an email from a resident who raised a concern regarding the maximum building size of 1000 sq ft for the detached accessory dwelling unit. The resident is concerned about the potential size of the footprint for a building that big. Tara responded that the maximum lot coverage of 25% would limit the dimensions of the building. Mike still feels, as a Board, the number should be reconsidered. Tara suggests the board revisit this after the public meeting.

Martie Cook inquired about the State's minimum square footage for attached accessory dwelling units of 750 sq ft. Tara responded that the town couldn't require it to be smaller than that. **Martie asks if the Town can require this to be smaller than 750 if we allow it, does it have to be at least 750 sq ft. Tara thinks that is the intent of the legislature to allow ample room for a home.**

Andrea Bryant comments that maybe wording could be added that all setbacks and regulations would apply, but Tara isn't sure why you would say that for one use when it applies to all uses and thinks it would be confusing.

Veronic Morris has a question about Attached Accessory Dwelling Units. It appears there is no maximum size for them. Tara confirms that is correct and can be looked at for next year. Veronica is surprised it wasn't discussed.

Amendment 3

Would make it easier to convert some buildings to multi-family dwellings.

Residential Conversion: The conversion of an existing residential structure or structure previously used for nonresidential purposes, to multi-family, or addition of dwelling units within an existing structure that is or with the change will become multi-family.

Residential Conversion would be added in the use tables as a new row following multi-family dwellings, to be a new Permitted Use in District 1 Main Street and District 1 and allowed by Special Exception in Districts 2, 3, and 4.

Amendment 4

Would increase housing opportunity by allowing dwelling units above first-floor businesses. A definition of Mixed Use would be added to the Zoning Ordinance.

Mixed Use: A structure with nonresidential uses on the first (street level) floor and dwelling units or a mix of dwelling units and nonresidential uses above the first floor.

Amendment 5

Would add Cluster Development as a Permitted Use everywhere except District 1 Main Street and the Landfill District. It would provide additional guidance for the Planning Board when reviewing proposed Cluster Developments, and provide a density bonus to encourage developments with homes no larger than 1200 sq ft.

The existing Cluster section of the Zoning Ordinances would be cleaned up. The big change comes with a density bonus of 150% of home no bigger than 1200 sq ft. This would make smaller homes more affordable to build.

A separation distance of at least 20 feet and an open space would also be built into the amendment so it looked and felt more like a neighborhood. There is also an allowance for Accessory Dwelling Units with a 750 sq ft size limit. There would be no allowance for short-term rentals within Cluster Developments.

Andrea Bryant wants to clarify that no buildings within a cluster development would be able to be used for short term rentals. Tara confirms and states this will be discussed further in Amendment 6.

Chris Jensen stated it doesn't seem like the Board has put any hard limits on Short Term Rentals, which was acknowledged as a major problem. He wonders how the Planning Board can prohibit short-term rentals within Cluster Developments. Tara explains that will be discussed in Amendment 6.

Mike points out that with in Amendment 5, Section B. Density, subsection 2 states that:

*For cluster subdivisions with permanent covenants restricting homes to no more than 1,200 square feet gross floor area with a two-car garage (no more than 480 sq. ft.) and **prohibiting use as a short-term rental**, the density may, at the applicant's discretion, be increased to 150% of that which would normally be allowed in the district provided that the applicant demonstrates the provision of water supply and wastewater treatment in accord with NHDES requirements. The net tract area shall not be reduced by the acreage of floodplains, wetlands or steep areas when calculating the allowed number of dwellings for this category of cluster subdivision.*

Chris Jensen wonders how the Planning Board can prohibit short-term rentals within Cluster Developments. Tara explained that it is a different land use. She also noted that the amendments will be reviewed by town council, and at that point it would become clearer. She also noted that municipal attorneys are recommending we be clear in the zoning ordinances about what can and cannot be used as a short-term rental.

Amendment 6

Would add Short-Term Rentals as a Permitted Use in all homes with some basic health and safety requirements, define renting one or two rooms in an owner-occupied home to be an accessory use not

requiring any special permission, make Bed and Breakfast a Home Business, and provide a definition for all other Public Accommodation which would now include Campground.

Tara points out the definition is key. *Short-Term Rental is a single-family dwelling, owner occupied two-family dwelling, or owner-occupied single-family dwelling with accessor dwelling unit, where one unit only if offered for transient use for compensation. Refers only to dwelling units that would normally be considered residential living units not associated with Public Accommodations.*

This definition gives a person renting part of a duplex some protection from the transient use and offers a little more oversight on who is renting.

There would be a new section added that outlined all the necessary documentation needed from the Building Inspector prior to the issuance of a Zoning Permit for a Short-Term Rental.

1. Access to the dwelling is provided by a Town or State maintained road, or private road that has not been the subject of a waiver pursuant to RSA 674:41 and that has been approved by the Planning Board.
2. The dwelling is served by one on-site parking space for each permitted bedroom plus one additional parking space.
3. The septic system is properly-functioning, with a NHDES permit on file for the number of bedrooms. For systems without a NHDES permit on file, an evaluation by a NH Certified Septic System Evaluator will be required, along with a current NHDES approved design to be constructed in the event of system failure.
4. For dwellings not served by a public water supply, documentation must be provided prior to the issuance of a permit of a test for total coliform by a New Hampshire Environmental Laboratory Accreditation Program-accredited lab showing the absence of coliform bacteria.
5. The dwelling is in compliance with all applicable building, health and life safety codes.

Andrea Bryant is concerned this is going in the opposite direction of where the town wanted to go.

Chris Jensen is still puzzled that there hasn't been any action to limit short-term rentals and wonders how this deals with the concerns.

Tara explains what the limits are: it can't be a unit in a multi-family home, you can't buy a home in town just to list it on Airbnb, it must be your principal residence or you seasonal dwelling, and someone couldn't put both units in a duplex or a home with and ADU on Airbnb or another market.

Tara feels there are a lot of limits. People can still buy single family homes and use it as a short-term rental. That's what is hanging out there without a limit, but the focus was on the rental properties.

Chris Jensen feels we have failed to effectively grapple with this whole idea of more housing.

Mike Bruno thought the purpose of working on these zoning ordinance was to increase work force housing or housing for our community and the Board had decided that for anything to be a short-term rental it needed to be owner occupied.

Tara stated it was discussed early on as a possibility, but it was taken out.

Mike doesn't remember recall that happening and doesn't feel the amendment, as written, deals with the shortage of rentals or the occurrence of someone buying a vacation home and list it on Airbnb or VBRO. He thought the town was going to allow short-term rentals as permitted use as long as they were owner occupied.

Martie added, otherwise, they needed to come in for SPR if it wasn't owner occupied. It was going to be treated as a business. I don't see that up there.

Tara stated it was not a feasible approach. You can't treat different owners with a different approach. A lot of these things were discussed but weren't the consensus for this draft.

Mike disagrees and states he doesn't think this is what the Board agreed to.

Martie asked if Mike was saying he wasn't in favor of people buying a home solely for the purpose of a short-term rental. Mike replied yes. Martie stated she absolutely agreed and was under the impression that the way it was left someone had to be there three months.

Tara, are there members of the public there? I thought the purpose of tonight was to receive public input and move forward from there.

Veronica Morris stated it was her understanding that when we change regulations there is usually a clause where we grandfather all the existing non-conforming uses.

Tara responded that in general this is correct, however short-term rentals are a gray area. My advice to you is to work closely with the town council on that.

Amendment 7

Would remove the impact fee section as it has never been used. There was no comment or questions.

The board begins to review the sections that were earmarked for further conversation.

Amendments 1 and 2 – Square Footage, is 1000 sq ft too big?

Alecia state she once had an ADU that was roughly 750 sq ft and doesn't think 1000' is too big. Tara adds that in 3 bedroom 1200 sq ft home the bedrooms are small.

After a discussion the Board decides to leave the amendment as is.

Amendment 5 – Prohibiting STR in Cluster Developments.

Mike feels it would be wise, so people don't buy these up for businesses.

The Board agrees to make this change.

Amendment 6 – Short-Term-Rentals

Tara asks if the consensus moved on STR?

Kaela would like to provide a little information that was heard during the outreach but hasn't been discussed this evening. We heard from a handful of people that STRs are already in town and given that, it might be harder to pass if the amendment changes to Owner Occupied.

Mike argues the handful of people who are not registered voters, but rather out of town property owners. He feels strongly that the Board needs to focus on long-term rentals and home ownership.

Alecia feels it's a good investment opportunity for people and doesn't think it should be ruled out completely. It doesn't match the state motto of live free or die. We'll be cutting out a portion of our marketplace. Its capitalism, the free market and that's what we are built on.

Mike is also concerned that more short-term rentals mean less students in our schools. Do we want to incentivize investors or do we want to make sure there are housing opportunities for our families.

Kevin understands Mike's point, but also doesn't like telling people what they can and cannot do. Kevin thought the conversation was a change of use. He feels there needs to be more guidance on this.

Martie adds that she doesn't like driving by vacant homes that were permanent residences, but no longer are. She feels that STRs should be a change of use as they are no longer a residence, but rather a business. She is unsure where the line between where planning stops and select board starts but doesn't want to see 133 residential units in town that are just short-term. There needs to be something to incentivize those becoming long-term.

Tara feels this amendment does that. You want to make sure you get something in front of the voters that you think will pass. Without it being defined in a separate ordinance there is nothing the Select Board can do. If you adopt this, you can require a Site Plan Review. The board had wanted it to be easier for the owner-occupied Short-Term Rental, so we added an owner-occupied Short-Term rental in the definition of a home business.

Home Business: *An accessory use of a dwelling or accessory structure on a residential lot that involves the on-site manufacture of goods, provision of services, or outdoor storage or activity, which use is clearly incidental and secondary to the use of the dwelling as a residence and shall not change the residential character thereof, with any retail sales only incidental and occasional, operated by a resident of the same premises. **Includes Bed and***

Breakfast and owner-occupied Short-Term Rental.

The Board is in a quandary regarding the lack of public input as it decides on how to proceed.

Tara asks Anthony if he would like to poll the Board to see where everyone is at.

The majority of the Board votes to move forward as is. The only limitation to Short-Term Rentals is in Cluster Development.

Tara states that if you say it in your zoning ordinance than you can require no STR in Cluster Developments in the covenants.

Alecia motions to hold the Public Hearing on 12/13/23 at 6:00 pm. Linda seconds, the motion passes 7-0.

Alecia motions to adjourn. Sean seconded, a vote of 7-0 ends the meeting.

Respectfully submitted,

Dawn Ferringo, Planning and Zoning Board Clerk