

TOWN OF NAHANT

Planning Board

March 15, 2023

The Chairman called the hearing to order at 7:05 pm, stating that the hearing was properly noticed, and then calling the roll of those members attending:

Rob Steinberg – Chairman - Here

Calvin Hastings, Vice Chairman – Here

Sheila Hambleton –Not Present

Patrick O'Reilly –Here

Steven Viviano – Here

J Shannon Bianchi, Corresponding Secretary – Not Present

John Stabile– Recording Secretary –Here

James Dolan – Not Present

Michelle Capano – Here

The Chairman noted that we will defer approval of the minutes of February 21, 2023, and of the March 13, 2023, hearing until the next meeting after the hearings. The Chair noted that, while Michelle Capano was appointed a voting member for purposes of the hearings of the STRC proposal and Citizens proposal, and deliberations on them, the Chairman was subsequently advised by legal counsel that, Michelle Capano, as an alternate member, can only be given voting rights in a special permit hearing. Therefore, the Chairman noted that Michelle did not participate in any vote based on this appointment, and asked for a motion rescinding Michelle Capano's appointment via motion at the March 13 hearing as a voting member for limited purposes

The Chairman asked for a motion to rescind the appointment of Michelle Capano to perform the responsibilities noted above. So moved by Cal, seconded by John

Rob Steinberg – Chairman - Yes

Calvin Hastings, Vice Chairman – Yes

Sheila Hambleton – Not Present

Patrick O'Reilly – Yes

Steven Viviano – Yes

J Shannon Bianchi, Corresponding Secretary – Not Present

John Stabile– Recording Secretary – Yes

The Chairman noted that on Monday, March 13, the PB held a hearing on zoning by-law amendments proposed by the Short-Term Rental By-Law Advisory Committee ("STRC").

The Chairman noted that the hearing tonight is about a proposal via Citizen's Petition to amend the zoning bylaws of the Town of Nahant related to short term rentals. The BOS submitted the proposed amendment to the PB on February 15, 2023. The Chairman noted that the PB will not rewrite the proposal but accept or reject the amendment put forward, although it may comment on that proposal.

The Chairman noted that he will set separate hearings (on the same night next week) for the PB to deliberate and determine its recommendation with respect to the STRC proposals and the Citizen's Petition proposal. Notice of those meetings will be provided shortly on the Town Website. Both the Citizen's Petition (which will be described

in detail tonight) and the STRC proposals can be viewed on the Town website at Town Clerk and the annual meeting tab.

The Chairman stated that during the last meeting on February 21, the PB via motion unanimously approved the holding of hearings on short-term rental for both the proposal by the STRC and the proposal made via a citizen's petition. It was noted that Wayne Wilson (Chair, STRC) and Dan Dolce (Citizen's Petition) would describe on March 13 and March 14 respectively how and why they recommend the approach proposed and the impact on the Town. The Chair would then provide the public with an opportunity to be heard.

The Chairman stated that notice of the hearing was published on Friday February 24 and Friday, March 7 in the Lynn Item. The legal notice stated that on March 14 at 7 pm, the PB would review the proposed amendments to the Zoning ByLaws submitted by the citizens group. To review those components of the Citizens' Petition seeking to adopt by-laws to address Short Term Rental Dwelling Units. The hearing will address zoning rights and zoning restraints with respect to short-term housing units but will not address those aspects of the petition that address any other matters.

Notices were also sent to the PB of City of Swampscott and Lynn, Health Dept, Building Dept, ZBA, MAPC, Dept of Housing and Community Development among other entities and persons.

The Chairman noted during the hearing on March 13 that we were expecting a challenging weather on March 14 and stated that he will provide notice as soon as possible on alternatives of a postponement or a zoom call. After conferring with legal counsel, the Chairman decided to postpone this meeting (originally scheduled for March 14), put signs on the door prior to the scheduled March 14 meeting noting the postponement to March 15 and the place and time of the rescheduled hearing, and a postponement and the date, place and time of the rescheduled meeting were published on the Town website and social media.

The Chairman then invited Dan Dolce to speak on behalf of the citizens group and to describe the Citizen Petition proposal.

Citizen's petition did not have much input to STRC and did not know the ultimate recommendation. Dolce said his proposal is more detailed. The main difference is between owner occupied and nonowner occupied which requires a special permit. There are plenty of safeguards already to allay concerns for a special permit process. Dan said we aren't changing a use or measurements and distance and the special permit process will create more time, cost and conflict that isn't necessary. Citizen's like it except for special permit requirement. If that approach was eliminated, they would be fine.

Dan expressed whether the ZBA would engender unnecessary cost and burden on the Town and landowners. Dan also said that more detail in the bylaw would avoid the problem of not knowing the regulatory framework.

Patrick raised the problem of the competing proposals. The Chairman asked Mike Rauworth can the ZBA quickly dispose of petition – will established special procedures to avoid long, unnecessarily drawn out proceedings. If there is no objection, the ZBA can act more quickly. If there are a number of factors, that adds to the complexity. Mike said he would look at other ZBAs to determine their experience. ZBA may have to set procedures for short term proceedings or amend ones we have.

Rebecca Dalpey raised concern about disparate treatment because of different hosts based on neighbors. Rebecca also what if you get a new neighbor. Rebecca said it is important to avoid exposing the Town to liability and burdens. Mike commented that two neighbors having adverse interest happens all the time before the ZBA and that the ZBA will apply the criteria and the court can review. Mike said someone has to decide it in one way or

another. The Chairman raised the concern that there is disparate treatment between owner occupied “snowbirds” and non-owner occupied units.

Mike Rauworth said we may need to update the bylaw in view of experience, and it isn’t going to be perfect. But Mike said we must try to minimize the number of unhappy outcomes, and have open, visible, objective and fair proceedings are critical.

Tom Hamilton had questions about enforcement. He said it is important that the criteria be clear and that there be effective enforcement.

Patrick asked who is responsible for enforcing the special permit. Mike Rauworth said that we need a well thought out provision for dealing with violations. If someone gets a permit and loses it, but continue to rent out the unit, it needs to be clear what happens. Mike suggested this might be a matter for the Building Inspector but asked are there procedures that are simple and easy to enforce?

Annie Wachtel said one difference between the two proposal is that the citizens have a grandfathering provision. In terms of equitable application, Annie asked if we fill up and have reach the cap, what happens if there isn’t room for anyone else. The Chairman said there could be a use it (based on number of day) or lose it provision. There also could be a lottery.

Chris Whitlock said the Town needs to put structures in place so we can get rid of bad players. We have good people operating short term rental that don’t meet owner occupied criteria and he asked how do we address parking, noise too many units in owner occupied. Chris said If no one watching, bad stuff happens.

Mike Rauworth said that, if the ZBA is the deciding authority, any provision in the by-law should expressly allow the ZBA to impose conditions. It should be an express point, because it allows a level of flexibility to deal with neighbor to neighbor conflict. Mike also noted that he limited supply creates a value to the right and the transferability is a problem if a right is limited in amount. The Chairman noted that transferability is not allowed in either proposal. Rebecca noted that a new property owner needs a new certificate and that would trump local rules. Patrick asked what happens if the LCC is sold. The Chairman noted that the special permit dissolves when the property is sold. We want to be sure you can’t sell LCC to allow for a transfer. Mike Rauworth noted that, if an administrative action prevents someone from doing short rentals, we want to avoid a taking claim. In regulations or by law, we want to be clear that any permission to do a short term rental is not a property interest.

Vi Patek says there is no question that we have to do something. She asked how do we avoid both proposals failing and then said if you join together, you often do better. If there could be a compromise, it would be better. Vi noted that there are just a few areas of difference – the percentage on the cap, the parking requirements in citizen have a parking space and possible off-site parking as opposed to a parking plan.

The Chairman asked for a motion to adjourn. Cal so moved, seconded by Pat. The vote was as follows:

Rob Steinberg – Chairman - Yes
Calvin Hastings, Vice Chairman – Not Present
Sheila Hambleton – Not Present
Patrick O’Reilly – Yes
Steven Viviano – Yes
J Shannon Bianchi, Corresponding Secretary – Not Present
John Stabile– Recording Secretary – Yes

Public meeting adjourned at 8:55 pm

Meeting Minutes prepared by Recording Secretary and Rob Steinberg.

Approved by Planning Board on March 21, 2023.