

DRAFT

**Zoning By-law Committee Meeting Minutes (VIA ZOOM)**

**March 31, 2021**

*Committee Members Present: Bernard Greene, John VanScoyoc, Roger Blood, Mark Zarrillo, Cliff Brown, Linda Hamlin, Linda Pehlke, Lynda Roseman, Paul Saner, Paula Friedman, Phil Hresko, Carla Benka*

*Committee Members Late: Ken Goldstein, Daniel Saltzman*

**[Absent: Jesse Geller, Johanna Schneider]**

*Staff present: Polly Selkoe, Victor Panak, Karen Chavez*

*Petitioners Present: Planning and Community Development*

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**ARTICLE 30 – AMEND THE ZONING BY-LAW TO AUTHORIZE YEAR-ROUND OUTDOOR RESTAURANT SEATING (Planning and Community Development Department)**

Presentation by Meredith Mooney, Community Planner  
Proposed changes to the General Zoning By-Law. Outdoor dining pre-covid, examples along Barcelona and Harvard Square. Post-covid, economy may take up to 3 years to fully recover.

Paula Friedman: Can there be a trial period for this? How can we respond if businesses are negatively impacted?

Bernard Greene: We have been addressing it throughout the year.

Polly: In the future, if it is not working out, another Warrant Article can be submitted.

Linda Pehlke: Does this require fees from the restaurants?

Greene: Fees were to be waived until 2022.

Linda Hamlin: What are the fees based on?

Meredith: *[shows "Estimated Costs" table]*

Pehlke: Is excited about this because of parklets. Wonderful addition to commercial areas.

**Paul Saner moves favorable action, seconded by Mark Zarrillo.**

John VanScoyac: Yes  
Carla Benka: Yes  
Roger Blood: Yes  
Cliff Brown: Abstain  
Paula Friedman: Yes  
~~Jesse Geller~~  
~~Ken Goldstein~~  
Linda Hamlin: Yes  
Phil Hresko Yes  
Linda Pehlke: Yes  
Lynda Roseman: Yes  
Paul Saner: Yes  
~~Johanna Schneider~~  
Mark Zarrillo: Yes  
~~Daniel Saltzman~~  
Bernard Greene: Yes

TOTAL: YES → 11  
NO → 0  
ABSTAIN → 1  
ABSENT → 4

[KEN GOLDSTEIN JOINED THE MEETING]

**ARTICLE 21 – AMEND THE ZONING BY-LAW RELATED TO MICRO-UNITS AND AGE RESTRICTED UNITS  
(Planning and Community Development Department)**

Presentation by Victor Panak, Planner:

- Before 2016, micro-unit dwelling (MUD) and age-restricted-dwellings were permitted in the Town but they were not defined nor appeared in the Use Table.
- 2020 Town Meeting in the Fall sought to reduce parking requirements for MUD.
- Purpose of Article 21 is to permit MUD in all zoning districts, keep zoning by-law unchanged, keep these dwellings the same way as other dwelling units.
- Micro-unit dwellings will be slightly amended.

Greene: What is the relationship between MUD and Age Restricted Dwellings

Panak: There is none

Panak: Reads definition of the By-Law.

Pehlke: Is in favor of Article, but wants to be more strategic in the future about where these units are allowed. Think about requiring some amount of shared public space.

Saner: Wants to know previous actions for this Article.

Benka: Will we see more age-restricted luxury units?

*Public Hearing: No requests to speak by public*

**Roger Blood moves favorable action, seconded by Carla Benka.**

John VanScoyac: Yes

Carla Benka: Yes

Roger Blood: Yes

Cliff Brown: Yes

Paula Friedman: Yes

~~Jesse Geller:~~

Ken Goldstein: Yes

Linda Hamlin: Yes

Phil Hresko Yes

Linda Pehlke: Yes

Lynda Roseman: Yes

Paul Saner: Yes

~~Johanna Schneider:~~

Mark Zarrillo: Yes

~~Daniel Saltzman:~~

Bernard Greene: Yes

TOTAL: YES → 13

NO → 0

ABSTAIN → 0

ABSENT → 3

[DANIEL SALTZMAN JOINS PANEL]

**ARTICLE 14 (and related Articles 15, 16, and 17)– AMEND THE ZONING BY-LAW TO ALLOW SHORT TERM RENTALS (Moderator’s Committee on Short Term Rental )**

Short Term Rentals (STR) presentation by Paul Warren.

STRs are not defined in Brookline’s Zoning By-Law. It has been determined that STRs are prohibited in Brookline. There is a pending lawsuit. Article 14 creates a new use; Article 15 relates to regulation and operating procedure. Provisions that were not changed:

- Operator must own the unit and have a valid Certificate of Operation
- Rentals of less than 24 hours prohibited

Provisions that changed include:

- Number of guests; written consent from condo association required and certification by operator that STR complies with all condo documents; operator does not need to be present during the rental; rental days of 27 days or less; inspections required initially and Building Commissioner decides if needed when time of renewal; commercial uses only prohibited; default appeals process added; and provisions eliminated.

Moderator's Committee has made substantial changes to the original referred Warrant Articles

Blood: Thinks there needs to be more clarification regarding changes involving condominium documents

Pehlke: Is against the provision changes regarding condominiums. Does not believe the community understands the impacts. Condo associations have not been given enough time to make applicable changes. Suggests that the association must certify that it [STRs] is allowed. This gives trustees the ability to make decisions about their own building. Believes Article 17 is way too permissive.

Paul Warren: Condo certification is still there.

*Discussion on how the vote will happen.*

Susie Roberts, member of the public: Was not sure on whether the committee will be voting?

Selkoe: The committee is not prohibited from voting.

Susan Roberts: This article is based on the practical realities of renting a room – there is a lot of work that goes into renting a room, and the horror stories that communities hear may not happen. Rentals mostly occur during major events (i.e. College graduation, Boston Marathon, etc).

Goldstein: With Article 14, he expects that the Town is over-regulating. What research has been done?

Warren: Neighboring cities have different requirement ratios of rooms-to-guests.

Friedman: The Article modeled Cambridge's approach. There is substantial testimony from department heads, and there was a request to be measured in the approach. [Article] 17 is too big and goes too far. Research was done, consideration was taken.

Brown: Wants a spreadsheet that shows all the data, so we do not go back and forth on who is right.

Warren: Will provide spreadsheet

Pehlke: Thinks that a lot of people in their single family home do not get this. Speakers mentioned how their life has been ruined because of renters (utilities, trash, parking). The purpose of this community is to look at long term housing. It's okay if one person has no issue with this [STRs], but it is wrong to assume that the community has no issues with this.

Scott Gladstone: Under 15 and 17, there needs to be someone available within 2 hours. It is a very hard question to know whether or not the alternative 14 would solve the pre-existing non-conforming

problem. There have been about 400 recent rentals on platforms. Believes that something needs to be passed that prevents future issues.

Hresko: In buildings with more than 3, there is management. Thinks the Town should not stick its nose in condominium documents.

Warren: Short term rentals are illegal in Brookline. And yet we still have several registered. Does not know whether there will be hundreds or a few, but there needs to be regulation. This has been worked on for years, and hopes that there is positive action on something.

Pehkle: If there will be voting on Advisory Committee amendments, there is an issue on what they are interpreting, and does not believe this is legal and right. Thinks there needs to be a real answer prior to voting. Suggests speaking to Town Council.

Blood: Agrees that clarification is needed, but thinks their attempt is misplaced because they are using the term of "governing documents" too loosely.

Susie Roberts: Wants to provide clarification on who the short term rentals are. People spoke in favor of Article 17. People need the money. It is not for extra money, it is for trying to make ends meet. People may not want to rent their house, but some circumstances (widows, senior with no children living at home, for those that do not have a job) require it.

Selkoe: Planning Report recommends that Article 14, 15, 16 be approved. These articles do allow people to rent their home for STR, it is just a matter of how slow.

Warren: Around the ability to rent and make money, that is a core principle.

Brown: Airbnb does not rent out by guest, but rather by unit and believes that Warren's statement is incorrect.

**Cliff Brown moves for favorable action on original Article, seconded by Ken Goldstein.**

John VanScoyac: Yes

Carla Benka: Yes

Roger Blood: Abstain

Cliff Brown: Abstain

Paula Friedman: Yes

~~Jesse Geller:~~

Ken Goldstein: Yes

Linda Hamlin: Yes

Phil Hreskol: Yes

Linda Pehlke: Abstain

Lynda Roseman: Yes

Paul Saner: Yes

~~Johanna Schneider:~~

Mark Zarrillo: Yes

Daniel Saltzman: Yes

Bernard Greene: Yes

TOTAL: YES →11  
NO → 0  
ABSTAIN →3  
ABSENT → 2

**Ken Goldstein moves for approval of Article 17, seconded by Cliff Brown.**

John VanScoyac: No  
Carla Benka: No  
Roger Blood: No  
Cliff Brown: Abstain  
Paula Friedman: No  
~~Jesse Geller:~~  
Ken Goldstein: Yes  
Linda Hamlin: No  
Phil Hreskol: Yes  
Linda Pehlke: No  
Lynda Roseman: No  
Paul Saner: No  
~~Johanna Schneider:~~  
Mark Zarrillo: No  
Daniel Saltzman: No  
Bernard Greene: No

TOTAL: YES →2  
NO →11  
ABSTAIN →1  
ABSENT → 2

**Roger Blood makes motion to amendments to Article 15, seconded by Paula Friedman.**

John VanScoyac: Yes  
Carla Benka: Yes  
Roger Blood: Yes  
Cliff Brown: Abstain  
Paula Friedman: Yes  
~~Jesse Geller:~~  
Ken Goldstein: Yes  
Linda Hamlin: Yes  
Phil Hreskol: No  
Linda Pehlke: Yes

Lynda Roseman: Yes  
Paul Saner: Yes  
~~Johanna Schneider:~~  
Mark Zarrillo: Yes  
Daniel Saltzman: Yes  
Bernard Greene: Yes

TOTAL: YES →12  
NO →1  
ABSTAIN →1  
ABSENT → 2

**Bernard Greene makes motion of favorable action for 15 as amended and 16, seconded by Ken Goldstein.**

John VanScoyac: Yes  
Carla Benka: Yes  
Roger Blood: Yes  
Cliff Brown: Abstain  
Paula Friedman: Yes  
~~Jesse Geller:~~  
Ken Goldstein: Yes  
Linda Hamlin: Yes  
Phil Hreskol: Yes  
Linda Pehlke: Yes  
Lynda Roseman: Yes  
Paul Saner: Yes  
~~Johanna Schneider:~~  
Mark Zarrillo: Yes  
Daniel Saltzman: Yes  
Bernard Greene: Yes

TOTAL: YES →13  
NO →0  
ABSTAIN →1  
ABSENT → 2

**Greene moves favorable action contingent Article 14, seconded by Ken Goldstein.**

John VanScoyac: Yes  
Carla Benka: Yes  
Roger Blood: Yes  
Cliff Brown: Abstain

Paula Friedman: Yes

~~Jesse Geller:~~

Ken Goldstein: Yes

Linda Hamlin: Yes

Phil Hreskol: Yes

Linda Pehlke: Yes

Lynda Roseman: Yes

Paul Saner: Yes

~~Johanna Schneider:~~

Mark Zarrillo: Yes

Daniel Saltzman: Yes

Bernard Greene: Yes

TOTAL: YES → 13

NO → 0

ABSTAIN → 1

ABSENT → 2

Pehlke: Requests that the Planning Report be sent to committee members.

Friedman: Thanks the committee for the thoughtful discussion and support of the Warrant Articles.

**Motion to end the hearing. The hearing was adjourned.**