

Approved June 14, 2022

**Advisory Committee Meeting  
Zoom Video Conference  
Monday, April 11, 2022, 5:30 p.m.**

Those present from Advisory Committee included Shawn Baker, Tom Cunningham, Jenn Fallon, Al Ferrer, Neal Goins, Jeff Levitan, Corinne Monahan, Doug Smith, Susan Clapham, Wendy Paul, Pete Pedersen, Patti Quigley Madison Riley.

Neal Goins called the meeting to order at 5:30 pm and introduced members of Advisory in attendance.

**Citizen Speak**

*John Lanza*, spoke about Article 39, the process and the amendments and urged Advisory members not to re-vote Article 39.

Jim Roberti, Chair, Planning; Patty Mallet, Planning; Don McCauley, Director, Planning; Eric Arbeene, Planning; David Himmelberger; Emma Coates, Planning; Marc Charney, Planning; Kathleen Woodward, Planning; Ryan Daws; Tom Harrington, Town Counsel; Ann-Mara Lanza; Bruce Franco; Catherine Mirick, Chair, School Committee; and Skye Jacobs were also in attendance.

**Discuss and Vote 2022 ATM Warrant Articles**

**Article 38, Motion 4**

Motion was updated to correct a typo. The Advisory Chair feels no re-vote is necessary as the substance does not change.

**Article 39**

Based upon a prior clarification made to the motion, Advisory asked whether its understanding that all detached accessory dwelling units (ADUs) are required to obtain a special permit from the Zoning Board of Appeals (ZBA). Tom Harrington, Town Counsel, sent a memo to Advisory that was prepared with Don McCauley, Planning Director. Tom Harrington presented at the meeting and clarified that any proposed detached ADU requires a special permit from the ZBA. As part of that process, notice of a hearing must be sent to abutters of the property and to abutters of abutters within 300 feet. These abutters are considered “interested parties” and, as such, have the right to testify at the hearing and could appeal the ZBA’s decision to the Superior Court or the Land Court if they were dissatisfied with the ZBA’s decision. Ann Mara Lanza representing Building a Better Wellesley and Jim Roberti, Chair of the Planning Board agreed that a ZBA review is required under these circumstances. Tom Harrington provided an example of the process. If someone wanted to convert an existing garage to an ADU, that would require them to get a special permit. Further, if the garage was a pre-existing, non-conforming structure (it is located within a setback) they would need a second special permit under which the ZBA determines that the new use is not detrimental to the neighborhood. Jim Roberti commented that the process for obtaining the second special permit noted is very common.

**Questions/Discussion**

- A question was asked if these would not come in to play if the ADU is part of a main residence.
  - If a house is in one of the setbacks and an addition is planned in the setback, then the non-conforming pre-existing structure would be expanding and would need to go through the ZBA special permit process as well. If the structure is not expanding and if the unit is in within the confines of the existing house, no special permit is required. If the existing house is on conforming lot and is a conforming structure then no special permit is

required. If the existing house is on a non-conforming lot or the existing house is non-conforming, they would need a special permit.

- What happens with a detached garage if it increases in height?
  - A special permit is still needed because it is a detached structure – Section 25 permit. However, if the footprint doesn't change, then the second special permit is not needed.
- Do both permits require consultation with neighbors?
  - Yes
- Is there any merit to making this process simpler?
  - It is a policy issue. The simpler the process is made then the neighbors might not be happy. The Town is used to this and will want to run these through the ZBA.
  - In Massachusetts and Wellesley many structures were built before the Zoning law existed. When the Zoning bylaw of overlaid on the map, there are a significant number of non-conforming structures. As a result, special rules were developed (the special permit process) to apply whenever changes to non-conforming structures are proposed. The ZBA applies the “detrimental to the neighborhood” standard which is very broad and may cause applications, including for proposed ADUs, to be denied.
- Appreciation was expressed for Planning’s work on this Article and in helping Advisory understand all the issues.
- Based on these clarifications, it was determined there was no substantive new information to consider that may require a re-vote on the article.

### **Article 39 Amendments**

David Himmelberger presented two amendments to Article 39. One amendment is to extend the minimum rental from 30 to 90 days to further lessen abuse by Airbnb and short-term rentals. Planning is opposed to this amendment because based on research the break period is 30 days. It was felt by Planning that the 30-day minimum with the owner on site minimizes the risks. The 30 days also provides flexibility for those who need to maximize value of their home and who cannot afford to stay in town. Other communities have not indicated that there is abuse of this.

### **Questions/Discussion**

- How were 90 days determined?
  - It was a longer period in keeping with goals to attract new families. The 90 days limit was chosen as least impactful to the purpose of ADUs.
- Concern was expressed about monitoring if the owner only lives on site for a half a year.
- A comment was made about the social fabric of the community and whether this attracts transient people into the community.
- Ann Mara Lanza spoke and asked Advisory to vote unfavorably on all amendments to the motion under Article 39 as the Planning Board’s initiative comes from the Housing Production Plan to help Wellesley create more affordable housing. Ms. Lanza further stated that many people were involved in the transparent process, the 30-day rental period was requested by seniors, and many citizens expressed support for ADUs.
- Support was expressed for the proposal to increase the initial lease to 90 days and then go month to month.
- If the goal is diversity it was felt that this amendment doesn’t do any harm.
  - The 30 day limit was selected by Planning because of benchmarking data and Newton has 30 days. It was felt 30 days gives the homeowner flexibility.
  - Planning feels that this amendment is a solution without a problem. The view of Planning is the bylaw is good as it is.
- A question was asked of Planning regarding how these provisions would be enforced.

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- They would be enforced by the Building Inspector, also the ADU owner would provide an annual certification to the Planning department and the ADU must file with the registry of deeds.

*Shawn Baker made and Corinne Monahan seconded a motion for favorable action on the amendment to the motion under Article 39 to increase the minimum initial rental period from 30 days to 90 days.*

**Roll Call Vote**

Jennifer Fallon – no  
Corinne Monahan – yes  
Jeff Levitan – yes  
Jake Erhard - yes  
Patti Quigley – yes  
Tom Cunningham -yes  
Doug Smith – yes  
Susan Clapham - no  
Al Ferrer - yes  
Wendy Paul – yes  
Pete Pedersen - yes  
Madison Riley – no  
Shawn Baker – yes

**Advisory recommends favorable action on the amendment to extend the minimum rental days for ADUs from 30 to 90 days, 10 to 3.**

The second amendment to Article 39 motion was summarized by Mr. Himmelberger and it was felt that the proposed ADU bylaw has the potential to impact the fabric of the town with no rules or regulations. It was felt that there should be a single home per lot and that additions or ADUs in homes were preferable to preserve the fabric of the town’s single-family nature and that have two structures on a lot is too much. Concern was expressed that there are 85 lots in the 10,000 square foot single residence districts that have deep lots and could easily accommodate two homes. The 900 square foot limitation does not address additional garages that could be added. It was felt that the better way to achieve affordable diverse housing is to encourage additions to existing homes rather than placing homes in backyards of existing homes. It was felt that it is prudent to wait to get a better sense of the experience with ADUs.

**Questions/Discussion**

- The Planning Board’s view in not accepting the amendments is that the Board felt it better served to debate this amendment on the floor of Town Meeting. Planning feels that the proposed bylaw gives people more flexibility to have detached units and these would all be subject to special permit as previously discussed.

*Shawn Baker made and Corinne Monahan seconded for favorable action on the amendment to the motion under Article 39 to prohibit the construction of a detached ADU.*

**Roll Call Vote**

Jennifer Fallon – no  
Corinne Monahan – yes  
Jeff Levitan – yes  
Jake Erhard - no  
Patti Quigley – no  
Tom Cunningham -yes  
Doug Smith – no

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Susan Clapham - no  
Al Ferrer - yes  
Wendy Paul – no  
Pete Pedersen - no  
Madison Riley – no  
Shawn Baker – yes

**Advisory recommends unfavorable action on the amendment to the motion under Article 39, 8 to 5.**

Ryan Daws presented an amendment limiting ADUs to 3 persons which some other comparable communities have in their ADU bylaw.

**Discussion/Questions**

- A question was asked if this would exclude a young family 2 parents and 2 children.
  - Yes
- Tom Harrington, Town Counsel felt that this amendment would need to be applied so that it is not in conflict with Federal Fair Housing laws. The AG might allow it but with caution as has been done in other towns. From a public policy perspective this would prevent families from coming to Wellesley to create housing diversity.
- An Advisory member felt that the character of the town should be welcoming.
- An Advisory member expressed continued support for ADUs but was not supportive of this amendment.

*Shawn made and Jenn Fallon seconded a motion for favorable on the amendment to the motion under Article 39 to allow no more than 3 people living in an ADU.*

**Roll Call Vote**

Jennifer Fallon – no  
Corinne Monahan – no  
Jeff Levitan – yes  
Jake Erhard - no  
Patti Quigley – no  
Tom Cunningham -yes  
Doug Smith – no  
Susan Clapham - no  
Al Ferrer - no  
Wendy Paul – no  
Pete Pedersen - no  
Madison Riley – no  
Shawn Baker – no

**Advisory recommends unfavorable action on the amendment to limit the number of people to 3 people in the motion under Article 39. 11 to 2.**

Ryan Daws introduced an amendment to limit ADUs to two bedrooms.

*Shawn made and Jenn Fallon seconded a motion for favorable action on the amendment to the motion under Article 39 to limit the number of bedrooms in an ADU to 2 bedrooms. Jenn second*

**Roll Call Vote**

Jennifer Fallon – no  
Corinne Monahan – yes

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Jeff Levitan – yes  
Jake Erhard - yes  
Patti Quigley – no  
Tom Cunningham -yes  
Doug Smith – yes  
Susan Clapham - no  
Al Ferrer - yes  
Wendy Paul – no  
Pete Pedersen - yes  
Madison Riley – no  
Shawn Baker – yes

**Advisory recommends favorable action on the amendment to the motion under Article 39 to limit the number of bedrooms in an ADU, 8 to 5.**

#### **Article 44**

Bruce Franco, the sponsor of the Citizen Petition under Article 44 made changes to the motion as he felt it could be better structurally. Mr. Franco provided a brief presentation on the changes. School Committee Chair, Catherine Mirick responded to the changes to the motion under Article 44 and felt that this motion sets up a shadow school committee and the provision to have Mr. Franco appoint the committee is not acceptable to the town’s elected school committee.

- This committee would be subject to Open Meeting Law and all meetings would need to be open and follow all rules and regulations. The Select Board would have to approve those selected by Mr. Franco. However, Town Meeting cannot require the Select Board to approve. It’s an aspirational motion. There is no penalty if the Select Board does not approve Mr. Franco’s appointments according to Town Counsel, Tom Harrington.
- An Advisory member expressed support for the town’s elected School Committee and noted that anyone can run for School Committee. It was further commented that there are educational professionals who consider things in depth. The Advisory member is not supportive of the revised motion under Article 44.
- A comment was made about the funding of an outside consultant and where the funds would come from.
- Mr. Franco indicated that he had put himself in place to make appointments because he could not find a town official or town board to agree to make the appointments to this committee.

*Shawn Baker made and Doug Smith seconded a motion to rescind Advisory’s prior vote on Article 44 as the motion has changed.*

#### **Roll Call Vote**

Jennifer Fallon – yes  
Corinne Monahan – yes  
Jeff Levitan – yes  
Jake Erhard - yes  
Patti Quigley – yes  
Tom Cunningham -yes  
Doug Smith – yes  
Susan Clapham - yes  
Al Ferrer - yes  
Wendy Paul – yes  
Pete Pedersen - yes

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Madison Riley – yes

Shawn Baker – yes

**Advisory rescinded the prior vote on Article 44, 13 to 0.**

*Shawn Baker made and Jenn Fallon seconded a motion for favorable action on the amended motion to create Academic Excellence committee and take actions as detailed in the amended motion.*

**Roll Call Vote**

Jennifer Fallon – no

Corinne Monahan – no

Jeff Levitan – yes

Jake Erhard - no

Patti Quigley – no

Tom Cunningham -yes

Doug Smith – yes

Susan Clapham - no

Al Ferrer - no

Wendy Paul – no

Pete Pedersen - no

Madison Riley – no

Shawn Baker – no

**Advisory recommends unfavorable action on the motion under Article 44, 10 to 3.**

**Amendment to Article 44**

Skye Jacobs, Town Meeting member from Precinct B, introduced an amendment to the motion under Article 44. Ms. Jacobs stated that she does not support the motion under Article 44 as it stands now because Mr. Franco is choosing committee members. However, should the motion under Article 44 pass Town Meeting, Ms. Jacobs proposes in her amendment adding three non-voting student members to the committee.

*Shawn Baker made and Jenn Fallon seconded a motion for favorable action on the amendment to the revised motion under Article 44 to add three non-voting students to the Academic Excellence committee.*

It was further clarified by Shawn Baker that this vote is to simply on the amendment to the motion under Article 44 and is not a vote on the motion under Article 44.

**Roll Call Vote**

Jennifer Fallon – yes

Corinne Monahan – yes

Jeff Levitan – no

Jake Erhard - no

Patti Quigley – yes

Tom Cunningham -no

Doug Smith – no

Susan Clapham - yes

Al Ferrer - yes

Wendy Paul – yes – Ms. Paul stated that she supports adding students but does not support Article 44

Pete Pedersen - no

Madison Riley – no

Shawn Baker – yes

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**Advisory recommends favorable action on the amendment to the motion under Article 44 to add three students to the Academic Excellence Committee, 7 to 6.**

**Minutes Approval/Liaison Reports/Administrative Items**

*Pete Pedersen made and Doug Smith seconded a motion to adjourn.*

**Roll Call Vote**

Jennifer Fallon – yes  
Corinne Monahan – yes  
Jeff Levitan – yes  
Jake Erhard - yes  
Patti Quigley – yes  
Tom Cunningham -yes  
Doug Smith – yes  
Susan Clapham - yes  
Al Ferrer - yes  
Wendy Paul – yes  
Pete Pedersen - yes  
Madison Riley – yes  
Shawn Baker – yes

**Meeting was adjourned at 7:21 p.m., 13 to 0.**

**Documents Reviewed**

<https://wellesleyma.gov/DocumentCenter/Index/1660>

- Advisory Committee January 19, 2022 minutes
- Advisory Committee March 3, 2022 minutes
- ADU Questions v2 2/25/22
- Amendment 1
- Amendment 2
- Area ADU Comparisons 10/3/21
- Article G – ADU 2.0
- Planning response to Advisory Committee Comments – ADU Bylaw
- Article 44 Background
- Article 44 Revised Motion Final
- Article 44 TMM Slide Deck
- Amendment to Article 44