

SOUTH HADLEY PLANNING BOARD REGULAR MEETING

MINUTES OF MARCH 11, 2019

Present: Mark Cavanaugh, Vice-Chair; Melissa O'Brien, Clerk; Brad Hutchison, Member; Diane Mulvaney, Member; Larry Butler, Associate Member; Richard Harris, Town Planner; and Colleen Canning, Recorder

As the Chair, Jeff Squire, was absent, the Vice-Chair, Mark Cavanaugh, called the meeting into session at 6:30 PM on March 11, 2019.

Minutes

The minutes from the February 25, 2019 meeting had previously been transmitted to the Board members for review by Mr. Harris.

Motion: Ms. Mulvaney moved and Mr. Hutchinson seconded the motion to approve the minutes from the February 25, 2019 meeting. Four (4) out of Four (4) members present voted in favor of the motion.

Correspondence

The correspondence folder was in front of Mr. Cavanaugh. Mr. Harris informed the Board that an additional correspondence had been sent via e-mail over the weekend from Tom and Lynanne Lamothe, South Hadley residents, expressing concern for public safety in regards to the proposed Center for Human Development group home on Old Lyman Road.

Consider Endorsement of Approval Not Required Plan submitted by Edward Radwilowcz. Property Location: 28 Waite Avenue (Assessor's Map #25 as Parcels #41, #91, and #108)

Mr. Harris opened with some background. The owner of the three above mentioned parcels has requested to combine the three parcels into one parcel. This would allow the property owner to receive just one tax bill instead of three. Mr. Harris explained that there is no intention of building on the acquired lots and there was no reduction of frontage. The three parcels together would create a lot over one acre.

Mr. Hutchinson had a general question for the Town Planner. He wanted to understand the relationship between DPW maintained roads and ANR permitting. What if a lot had frontage on a road not on a DPW maintained way? Mr. Harris explained the three different instances in which a road is considered a 'way'. An owner of land abutting such a way is entitled to divide their property without going through the subdivision process. Mr. Harris went on to explain that Massachusetts is the only state that has this provision. Mr. Harris noted that this is an "Approval Not Required" plan, therefore the obligation of the Board was to decide whether or not to endorse it.

Motion: Ms. O'Brien moved and Ms. Mulvaney seconded the motion to endorse the Approval Not Required (ANR) Plan submitted by Edward Radwilowcz at 28 Waite Avenue (Assessor's

Map #25, Parcel #41, #91, and #108). Four (4) out of Four (4) members present voted in favor of the motion.

The endorsed plan was passed around to members and the plan was signed by Ms. Mulvany, Mr. Hutchinson, and Ms. O'Brien.

Development Update and Planner's Report

a. Development Report

- Mountainbrook Development – Phase 2 – (No change)
- Rivercrest Condominiums – (The developers have inquired about installation of a sign in accordance with the 2018 amendment to the Zoning Bylaw. It is believed that an amendment to their Special Permit will be required. The developers are working on a proposal to bring before the Planning Board.)
- Ethan Circle Subdivision –(No change)
- Canal Street Condominiums – (No change)
- Bardwell Street Condominiums – (No change)
- Potential Flexible Development on Amherst Road by Thomas Spring – (An engineer representing Tom Spring has contacted Mr. Harris as to requirements for submittal. It is anticipated that the applications – Special Permit and Stormwater Permit – will be submitted by early April which would likely result in the hearing being begun in May 2019)
- Riverlodge Road – (No change)
- Opportunity Zone Designation. (No change)
- Zoning Map Amendments – (The reports have been revised and posted on the Town's website at the following link: <http://ma-southhadley.civicplus.com/947/Reports-to-Town-Meeting-on-Zoning-Map-Am>)
- 460 Newton Street, 47-49 Camden Street, and 102-104 Lyman Street – This hearing has been deferred until April 8, 2019 at the applicant's request.
- Proposed Group Home/Congregate Living Facility – This hearing has been requested to be deferred until April 8, 2019 by the applicant. The Board will consider the request at tonight's meeting
- Bridge Street Mixed Use Development – (Mr. Harris met with Dan and Jaime Luis who are planning to submit an application to build a small mixed use building at 36 Bridge Street. The proposed project would consist of 5 apartments with a small retail/office space for lease and parking within riverfront. Parking within riverfront will require approval from the Conservation Commission. It is anticipated that the Public Hearing on their application will likely begin in May 2019.)

b. Bylaw Amendments

- Bylaw Amendments for 2019: (None are being drafted at this time. The deadline for submittal of articles to the Town Administrator is April 2, 2019)
- Smart Growth 40R Districts: (This is intended to be discussed at the March 25th meeting. The State has granted Final Approval of the Newton Street Smart Growth District)
- Infill Development/Lot Averaging Bylaw Amendment: (No change)

- Design Review Bylaw: No change – However, Mr. Harris thinks this is one of the items that should be put forward for Town Meeting in 2020
- Chapter 43D Expedited Permitting: No change
- Solar Photovoltaic Zoning Bylaw amendment: (No change.)
- Working on a model Subdivision Regulation with other communities and the PVPC: (This is taking a vacation over the winter.)

c. Other Projects

- Urban Renewal Plan and Redevelopment Authority: (The DHCD has submitted a review of the revised plan and the Conservation Administrator/Planner has obtained the original work from the Authority's consultant so she can make the required revisions)
- MassWorks Grant – Gaylord Street: (Construction is expected to begin by the end of March on the waterline replacement)
- MassWorks Grant – 2018: (No change)
- Land & Water Conservation Fund Grant Applications: (The construction is approximately 60% complete and work is underway on designing of the various signs and kiosk materials.)
- Complete Streets Program Participation: (Fuss & O'Neill is working on the engineering details for this project.)
- Other Grant Application: (No change).
- Regional Valley Bike Share program: (no change)
- Participating in the "Team Hampshire" economic development coordinating effort – This is an informal process among several of the cities and towns in Hampshire County
- Permitting Guide: No change
- Green Communities: No change
- Westover Air Reserve Base Joint Land Use Study: No change.
- Regional Housing Committee: (No change)
- River to Range Trails. No change.
- Age Friendly Community. The Town is participating with Chicopee and Holyoke in an "Age Friendly Community" planning process. As part of this process, they have launched a survey the planning department is intending on using this survey as the input for the second community forum associated with the Master Plan and OSRP Update Process scheduled for March 27th which has the theme "Healthy Neighborhoods for All Ages".

Linda Young, South Hadley Resident, addressed the Board with a question about where to access the "Age Friendly Community Survey". Mr. Harris explained that it was on the town's website and he advised to subscribe to receive e-mail updates. He included that e-mails would be sent out to make sure the survey reached as many people as possible.

- Open Space & Recreation Plan and Master Plan Updates: The first forum was held February 27th and appears to have had a very good turnout (46 persons) in spite of the snow and dismal weather forecast. The MPIC has scheduled 4 "Meetings in a Box" as follow ups to the first forum. These meetings are scheduled as follows:
 - March 12, 2019 – 6:00 p.m. – South Hadley Library, Canal Street

- March 20, 2019 – 6:00 p.m. – Fire District #2 Meeting Room, Woodbridge Street
 - March 21, 2019 – 11:00 a.m. – South Hadley Senior Center, Dayton Street
 - March 21, 2019 – 1:00 p.m. – South Hadley Senior Center, Dayton Street
- The next meeting of the Open Space and Recreation Plan Update Advisory Committee is scheduled for Wednesday March 20, 2019 in the Town Hall – Room 205
 - The next meeting of the Master Plan Update Advisory Committee is scheduled for Thursday March 21, 2019 in the Town Hall – Room 205.
 - The Conservation Administrator/Planner is working on developing a survey for local High School Students. This survey will help inform the many discussions surrounding the Open Space Recreation Plan and Master Plan Update.

SCHEDULED PUBLIC HEARING: Application for Site Plan Review and Stormwater Management Permit by Center for Human Development for an Educationally Exempt Use (24 bed congregate living facility providing a variety of core life skills education) – Property Location: West side of Old Lyman Road - (Assessor’s Map #14 – Parcel #64). **(NOTE: On March 6, 2019, applicant’s representative requested that this hearing be deferred/continued until April 8, 2019.)**

Mr. Harris offered background on this case. A representative of the applicant sent a letter through e-mail requesting to defer their scheduled public hearing until the April 8, 2019 Planning Board Meeting. Input from the town’s contracted engineer for peer review of the Storm Water Management Plan has not been submitted and the applicant’s representative needs time to review any comments that may have been generated. It was noted that the request was received by the Planning Department more than 72 business hours prior to the public hearing. Because the applicant abided by the Board’s policy, the applicant was not required to attend the scheduled public hearing on March 11, 2019. It was up to the Board’s discretion to allow the deferral of the scheduled public hearing to the requested date and time.

Motion: Ms. O’ Brien moved and Mr. Hutchinson seconded the motion to grant the applicant’s request to defer the scheduled public hearing until April 8, 2019. Four **(4)** out of Four **(4)** members present voted in favor of the motion.

Consider response to Conservation Commission letter

Discussion opened with Mr. Cavanaugh offering background information. Questions surrounding the permitting of Chicopee Concrete’s extraction activities have been part of a multi-month public hearing process following submittal of Special Permit application. The applicant requested, and the Planning Board granted, withdrawal of the application without prejudice. He noted that Chicopee Concrete’s extraction operation generated concern for water protection. This concern has led to a discussion about potential changes in the current Water Supply Protection District (WSPD). To help find common goals, the Planning Board has scheduled a discussion regarding WSPD with the Conservation Commission, Board of Health, Water District #2 Commission, and the general public.

Mr. Cavanaugh indicated that a 2003 DEP report regarding potential threats to the District 2 public water supply will be used as a reference to help navigate the conversation. Mr. Harris commented that the DEP rates different uses of land to have different negative impact on the land. For example, agriculture is considered a primary threat to water quality. However, Agriculture use is generally exempt from zoning under State law. Housing development was also cited as a potential threat to water protection.

Jim Canning, South Hadley resident, inquired when the Board intended on answering the itemized points referenced in the Conservation Commission's letter. Mr. Cavanaugh responded by saying that he didn't have the information to answer the Conservation Commission's questions. Mr. Harris stated that he was in the process of responding to records requests and was uncovering information in boxes from archives. Additionally, the Town was running software that would retrieve relevant e-mails.

Mr. Harris reviewed the process for enforcement of the Zoning Bylaw. He noted that under State Law, the Building Commissioner has sole authority to enforce the Zoning Bylaw. Accordingly, he suggested someone has a zoning concern, they should file a complaint with the Building Commissioner. The Building Commissioner would then investigate the claim and come to a decision. If the filing party is not pleased with the Building Commissioner's ruling, they are allowed to file an appeal with the Zoning Board of appeals that will review their complaint.

Rudy Ternbach, precinct B resident, inquired why the Planning Department and Conservation Department were a combined department and suggested that the merger was not helpful in responding to requests for information. Mr. Harris reviewed the part-time staffing that previously existed and what had been planned. Town administration decided to combine these positions to create one full time position. Mr. Harris shared that the merging of the departments did not impact on the speed that information was shared. He noted that the Planning Department posts all documents, even background agenda information, for the Planning Board on-line – something which other Boards do not do.

There was further discussion regarding the history Chicopee Concrete's permitting. It was noted that until 2001, earth removal activities of any scope did not require a Special Permit – but was allowed by right. Accordingly, Mr. Harris noted that the 2000 Chicopee Concrete permitting did not have special permit conditions. If this project went before the Planning Board after 2001, it would have required a Special Permit. Mr. Harris stated that it is the holder of the permit's responsibility to make sure that they are in compliance. He reiterated that zoning concerns should be forwarded to the Building Commissioner.

Robert Pleasure, Water District 2 resident, addressed the Board. He stated that there was no record of a permit in the Hampshire Registry of Deeds. He wanted to know if there was a Special Permit and if Chicopee Concrete's gravel operation was going forward. Mr. Harris replied that there was no Special Permit, none was granted – none was required in 2000. The Building Commissioner is the ultimate authority to decide if the operation can continue. He reiterated that zoning complaints should be brought forward to the Building Commissioner.

Steven North, South Hadley resident, addressed the Board. He noted that, based on aerial photos, Chicopee Concrete's mining operation moved passed the agreed upon removal area, cell #1. Mr. Harris stated that according to the survey preformed, which is the industry standard for evaluation, that it appears that the earth removal activities were right up to the edge of Cell #1 – he noted that when the approval was granted in 2000, the operator of the gravel/sand pit had extended into the area shown as Cell #2 on the 2000 plan.

Rudy Ternbach addressed the board again. He invited everyone to a the 1st Annual South Hadley Conservancy Conference which will be held at the South Hadley Public Library on Sunday April 7, 2019 from 2:00 PM- 4:00 PM in the Community Meeting Room. He offered a flair of the event to the Board.

Rudy Ternbach continued and inquired what could be done if an activity was allowable by State law, but had adverse effects on the community. Mr. Harris stated that the Town could petition the legislature to grant it authority to regulate a use that is listed as exempt from zoning in State. Mr. Harris gave an example of 'home rule' regulation – the legislature allowed the town of Ludlow to restrict any school or church from locating within the approach zone of Westover Airport.

Robert Pleasure addressed the Board again. He submitted paperwork for the Board's consideration. This information included a 2001 Planning Board Report and Recommendation for Zoning regarding earth removal. He also submitted two sections of Massachusetts Law referencing (1) Special Permits and (2) the purpose of by-laws of towns. He referenced the section regarding special permits and the prohibition of certain activity in a recharge zone. He commented that a number of towns have prohibited gravel mining in water recharge zones.

Walter Hamilton addressed the Board. He asked if requests to the Building Commissioner, regarding zoning violations, should be made in writing. Mr. Harris recommended that a request of that nature should be made in writing.

Joanna Brown, of precinct E, asked if Chicopee Concrete's representative was able to find a permit for the excavation operation. Mr. Harris replied that Chicopee Concrete's representative has not been able to generate a permit.

Kathleen Davis, South Hadley Resident, asked for clarity about the process of submitting a zoning complaint to the Building Commissioner and the role of the Zoning Board of Appeals. Mr. Harris reiterated that if a member of the public has a zoning concern, they should file a complaint with the Building Commissioner, as the Building Commissioner is the Zoning Enforcement Authority under State law. The Building Commissioner would then investigate the claim and come to a decision. If the filing party is not pleased with the Building Commissioners ruling, they are allowed to file an appeal with the Zoning Board of Appeals.

With respect the agenda item, Mr. Hutchinson inquired how the Board wants to respond to the Conservation Commission letter. It was decided that Mr. Harris will prepare information regarding the 10 items listed in the Conservation Commission letter and send it to the Planning Board for consideration.

Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

Ms. Mulvany invited everyone to attend “Dan Kane and Friends featuring Freddie Marion” on Sunday May 19th at the South Hadley High School. Proceeds from the show will benefit the new South Hadley Senior Center building.

Ms. O’Brien invited everyone to an event hosted by the Bike Walk Committee. On Sunday March 24th at 12:45 PM there will be a maple syrup trek at the Stone Silo Maple Syrup Farm that will include a tour of syrup tapping and views of South Hadley conservation lands. This is the rescheduled date from February 24th.

Adjournment

Motion: Ms. Mulvany moved and Ms. O’Brien seconded to adjourn the meeting at 8:15 PM. Four (4) out of Four (4) members present voted in favor of the motion.

Respectfully Submitted,
Colleen Canning, Recorder

Appendix

28 Waite Ave ANR Plan	Planning Dept. Files
Conservation Commission Letter to Town Boards	Planning Dept. Files
2001 Planning Board Report and Recommendations for Earth Removal	Planning Dept. Files
Massachusetts General Law: Part 1, Title 7, Chapter 40A Section 9 (submitted by Robert Pleasure) - attached	
Massachusetts General Law: Part 1, Title 7, Chapter 40 Section 21 (submitted by Robert Pleasure) - attached	
Flier for the First Annual South Hadley Conservancy Conference (submitted by Rudy Ternbach) - attached	