

# Background Materials February 10, 2025– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 2/6/25

**Cable Access Channel 15** –The Cable Studio has indicated that this meeting will be live streamed on Channel 15.

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**Background Reports for all Planning Board meetings** are posted online:

<https://www.southhadley.org/1274/Agenda-Background-Materials>

### AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 9/11/23, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://www.southhadley.org/DocumentCenter/View/11705/Policy-on-Open-Comment-Period---As-Adopted-2023-09-11>

**Action Needed:** Allow members of the public to offer comments to the Board.

### AGENDA ITEM #2 Minutes

Planning and Conservation Coordinator Colleen Canning will forward minutes separately.

**Action Needed:** Vote to approve the minutes.

### AGENDA ITEM #3 Correspondence

Correspondence are attached.

**Action Needed:** No action needed.

**WITHDRAWN** -- AGENDA ITEM #4 Special Permit Public Hearing, 11 Brockway Lane – Expansion/alteration of Preexisting Nonconforming Structure

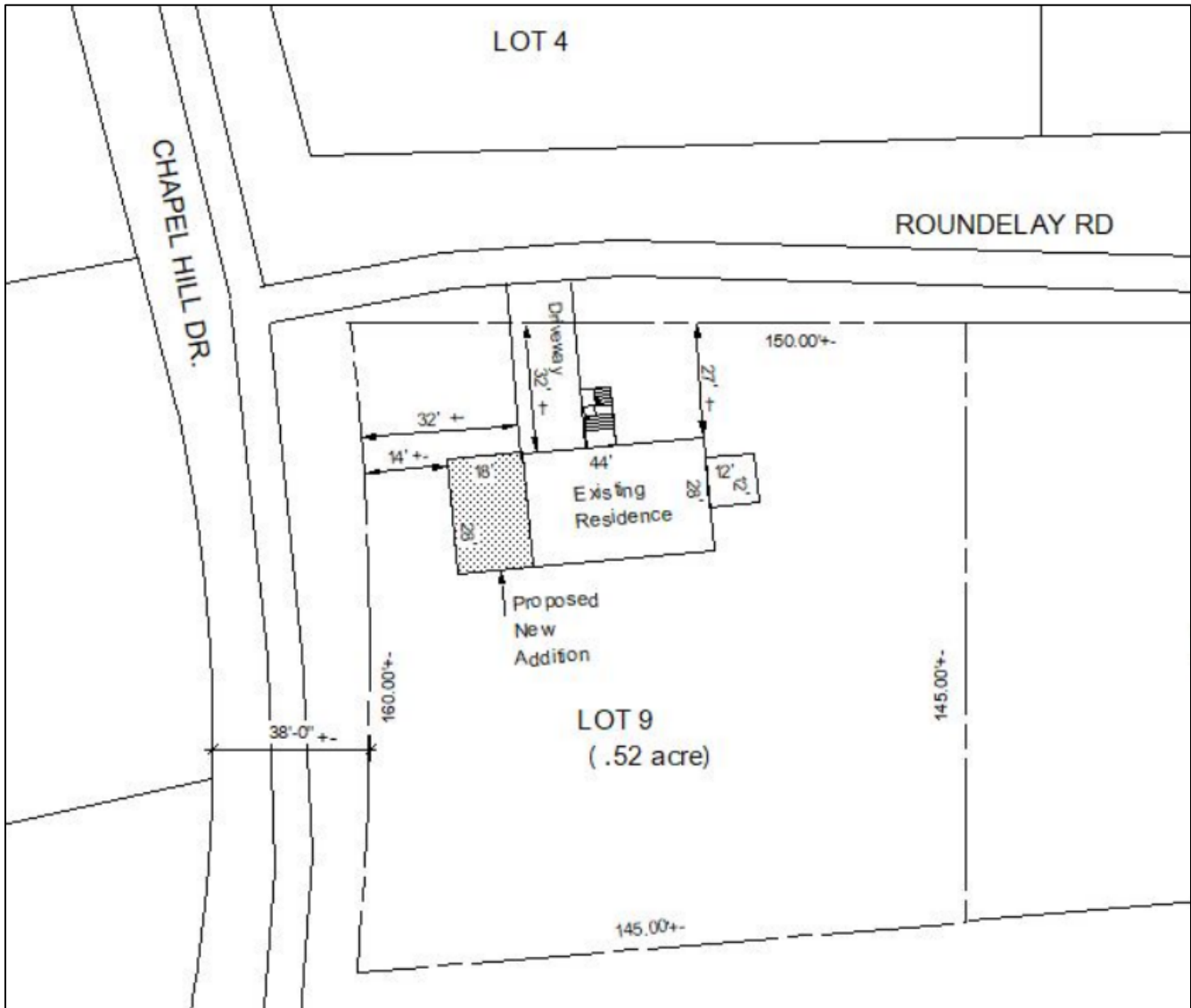
The applicant has withdrawn this permit application. No further discussion required at this time.

### 7:00 PM Public Hearing

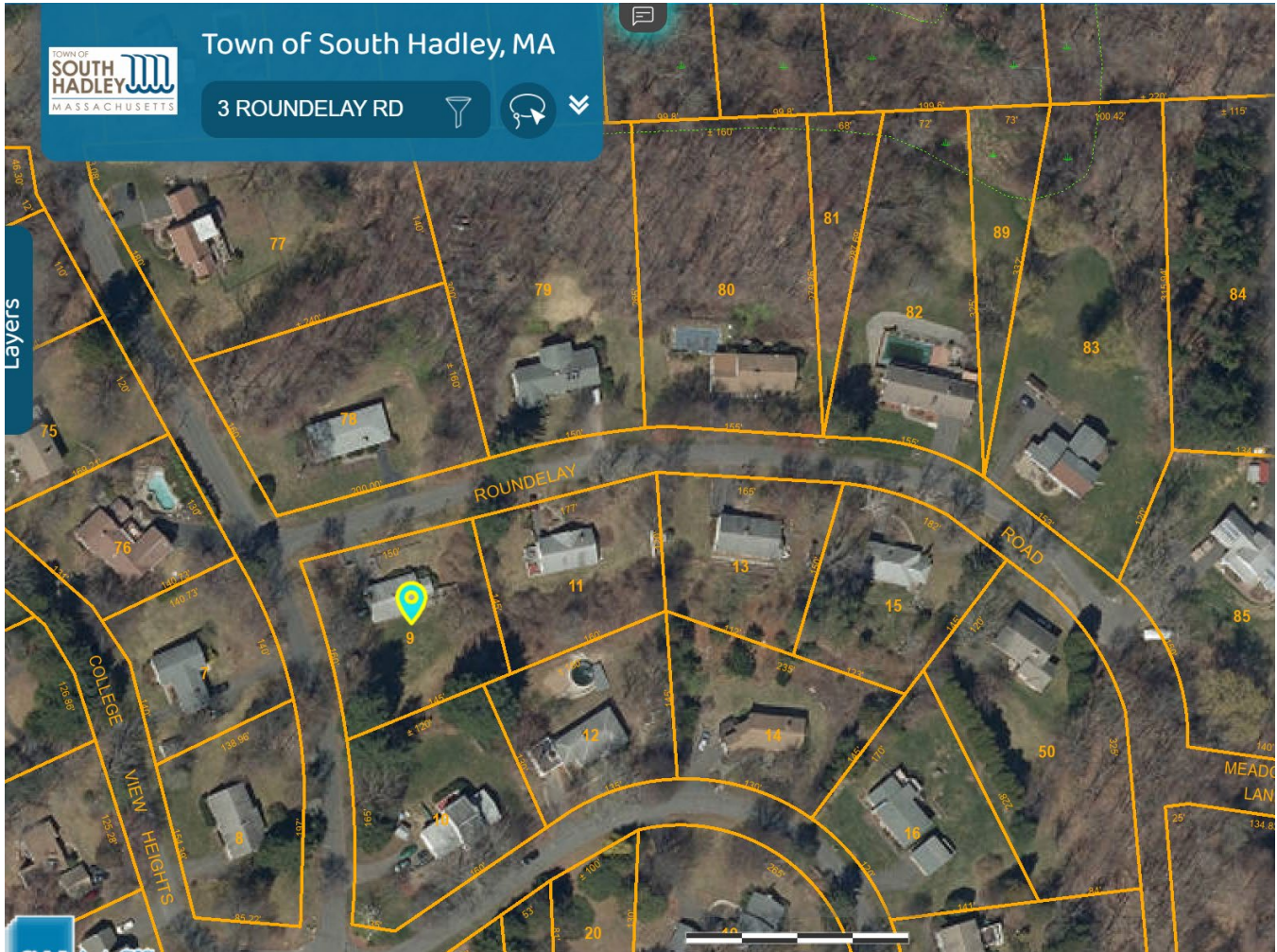
AGENDA ITEM #5 Special Permit for Expansion/Alteration of Preexisting Nonconforming structure – 3 Roundelay Road

Application and plans online: <https://www.southhadley.org/1466/16083/Roundelay-Road-3---AlterationExpansion-o?activeLiveTab=widgets>

The subject property is a single-family dwelling located in the RA-1 zoning district. The project includes the addition of one bay to the garage and master bedroom with bathroom. The property is a corner lot with an address at 3 Roundelay Road, but also having frontage on Chapel Hill Drive. The front setback in the RA1 district is 40', which applies to both streets for a corner lot. Based on Assessor's records, the house was constructed in 1957, having a front setback of 32' from both Roundelay Road and Chapel Hill Drive thereby creating a preexisting nonconforming structure under the current zoning bylaw dimensional requirements.



Per the Zoning Bylaw 255-7(B)(1), "Preexisting nonconforming structures or uses may be changed, extended or altered only upon approval of a special permit for such purpose by the Planning Board acting as the special permit granting authority, provided that the Planning Board shall find that such change, extension or alteration will not be substantially more detrimental than the existing nonconforming use to the neighborhood in which it is located."



When evaluating preexisting nonconforming uses, the so-called “Powers Test” is to be applied. We can also use this framework when evaluating a change in a preexisting nonconforming structure:

1. *Does the structure reflect the nature and purpose of the structure prevailing with the zoning took effect?*

The single-family building was constructed in 1957, and at which time it complied with the single-family residential use allowed in the zoning district and the dimensional standards for setbacks. Sometime thereafter, dimensional standards were changed, and the a greater front setback implemented (40’).

2. *Is there a difference in the quality of character and/or degree of the resulting change in the structure?*

The proposed addition maintains the structure as 3-bedroom residential dwelling, and add one bay to the garage.

3. *Is the current structure (to be read as proposed change in structure) different in kind in its effect upon the neighborhood?*

The single-family residential use will remain the same with the proposed addition to the dwelling and attached garage. In terms of encroachment within the front setback, the structure will be extended along its existing front setback on Roundelay Road by 18' (existing building is 44' + 18' = 62' long). The addition will not be any closer to Roundelay Road than the existing structure, and will actually be setback further slightly due to the orientation of the house to the road. There are several other houses on Roundelay Road that are larger than #3 and therefore extend further along the frontage of Roundelay Road:

Lot 82/16 Roundelay – 82'

Lot 80/12 Roundelay – 78'

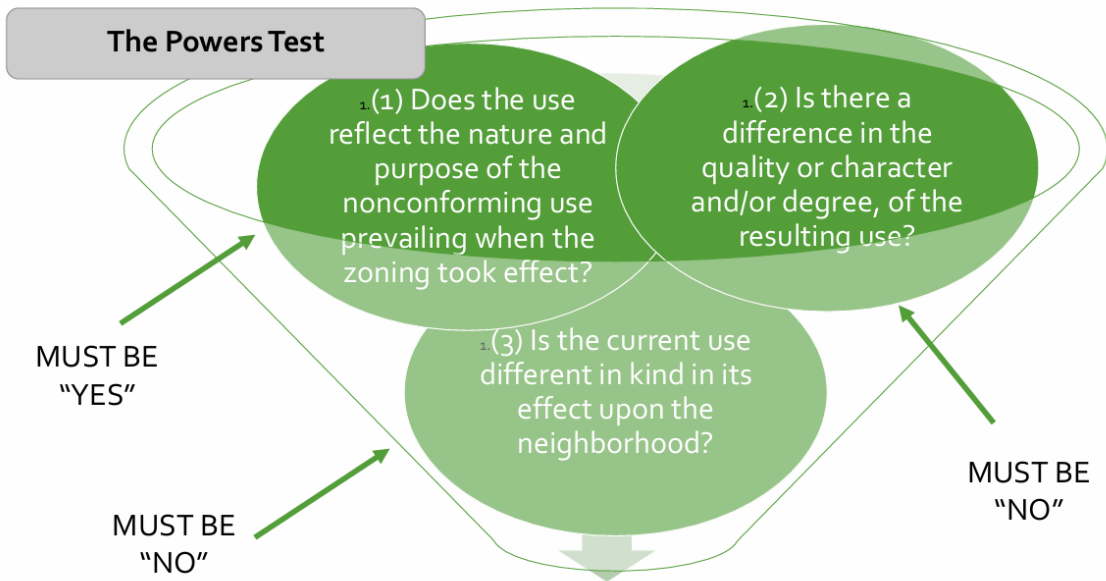
Lot 79/8 Roundelay - 77'

Regarding the frontage encroachment on Chapel Hill Road, the addition will encroach by 18' within the front setback, reducing the setback from 32' to 14'. However, due to the alignment of the parcel boundary to the right-of way along Chapel Hill Drive, that encroachment appears less intrusive due to the road curvature. Other properties within 14-32' front setback in the neighborhood appear to include:

Lot 77 – 19 Chapel Hill Drive

Lot 34 – 36 Chapel Hill Drive

Lot 35 – 38 Chapel Hill Drive



**The first question must be answered in the affirmative, the second and third questions in the negative, for the change to the nonconforming use to be valid.**

**Recommended Motion:** The Planning Board finds that the proposed extension of the principal dwelling will not be substantially more detrimental than the existing nonconforming use to the neighborhood in which it is located. And, authorize the Director of Planning and Conservation to sign the Decision on behalf of the Planning Board Chair. [Alternatively, the Chair can come to the office and sign the Decision herself.]

**Action Needed:** Open the public hearing and discuss the application, ask any questions of the applicant for clarification, accept public comment, render a finding regarding the application and take a vote on the request for a Special Permit, close the public hearing.

### AGENDA ITEM #6 Discussion Zoning Amendments for Agricultural Uses and Sign Guidelines

In July 2024, the Planning and Conservation Department engaged Planning consultant Richard Harris to conduct a comprehensive review of agricultural uses and signs in the Zoning Bylaw as well as within other local bylaws and regulations. Below are links to the reports. The Board should consider a schedule for discussion of the recommended amendments.

Agricultural Uses Zoning Amendment Recommendations:

<https://southhadley.org/DocumentCenter/View/13675/Agricultural-Uses-Review-and-Recommended-Amendments>

Sign Bylaw Amendment Recommendations:

<https://southhadley.org/DocumentCenter/View/13674/Sign-Bylaw-Review-and-Recommended-Amendments>

**Action Needed:** Identify schedule for discussion of recommendations.

### AGENDA ITEM #7 Discussion of Accessory Dwelling Unit (ADU) Regulations under 760 CMR 71.00

Links to background materials here:

255-50 Accessory Dwelling Units Zonign Bylaw – Proposed Amendments 2/6/25:

<https://southhadley.org/DocumentCenter/View/13770/255-50-ADU-Bylaw---Proposed-Amendments-262025>

255-50 Accessory Dwelling Units Zoning Bylaw: <https://ecode360.com/44060663#44060663>

MTC Legal Guidance for Affordable Homes Act Compliance:

<https://southhadley.org/DocumentCenter/View/13201/MTC-Legal-Advisory-for-Zoning-Changes---Affordable-Homes-Act>

Affordable Homes Act: <https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter150>

The new ADU law (part of the Affordable Homes Act St. 2024, c. 150, § 8) went into effect on 2/2/25 and at this time, our local bylaw is not fully in compliance with the new Regulations as promulgated under [760 CMR 71.00](#). In summary:

1. The Act amends M.G.L. c. 40A, § 3 to encourage the production of accessory dwelling units throughout the Commonwealth.
2. The Act establishes that in certain circumstances the use of land or structures for ADUs are protected from zoning restrictions by providing that zoning shall not prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single ADU, or the rental thereof, in a single-family residential zoning district, and imposes protections on ADUs through M.G.L. c. 40A, § 3, the Dover Amendment.
3. The Act explicitly prohibits municipalities from imposing owner-occupancy of either the ADU or the principal dwelling and impose limitations on parking requirements in excess of that defined in 760 CMR 71.03(2)(b). 255-50 has an owner occupancy requirement that will need to be removed.
4. Municipalities may impose reasonable restrictions and regulations, but may not exceed the limitations set for dimensional standards required for principal dwellings or single-family residential dwelling or accessory structure in zoning districts where ADUs are permitted, which ever results in more permissive regulation. [760 CMR 71.03(3)(b)(2)] 255-50 has restrictions on the number of bedrooms, number of occupants, height limitations, and set back requirements. These restrictions are either not applicable to single-family dwellings or are more restrictive than that allowed for single-family dwellings within zoning districts which permit single-family residential dwellings.

Based on the regulations as promulgated in 760 CMR 71.00, I have provided recommended amendments to bring zoning bylaw 255-50 Accessory Dwelling Units into compliance:

1. Delete B(1)(c) owner occupancy provision.
2. Delete B(1)(e) limitation on occupancy of no more than three people nor no more than 2 bedrooms. There is no such regulation of single-family dwellings elsewhere in the zoning bylaw.
3. Delete B(1)(i) height limitation of 1 ½ stories. Replace with regulation requiring compliance with dimensional standards for single-family principal dwellings in the zoning district subject to the ADU.
4. Delete B(1)(g) off street parking requirements. Replace with language from 760 CMR 71.03 (2)(b).
5. Delete B(1)(H) and B(1)(H)(i) building setbacks requirement compliance with principal dwelling. Per 760 CMR 71.03(3)(b)(2), the more permissive setback would be that of the accessory structure. Replace with regulation requiring compliance with setbacks for accessory structures in the zoning district subject to the ADU.
6. Delete B(3-5) owner occupancy provision documentation.

**Action Needed:** Identify schedule for discussion of ADU Bylaw amendments and submittal to Annual Town Meeting for adoption. The recommended amendments have not been reviewed by Town Counsel at this time.

**AGENDA ITEM #8 Discussion 27 Bardwell Street Development Progress Update**

The Special Permit was issued in 2016, and amended in 2018 for 5 dwelling units, 3 garage bays in the building, a freestanding accessory garage with 2 bays and 5 open air parking spaces.

Past Decisions and plans online here:

[Bardwell Street \(27\) - Library Conversion to Condos | South Hadley, MA - Official Website](#)

The Special Permit history for this project is as follows:

- February 10, 2016 - Special Permit Approval
- January 10, 2018 - Special Permit Amendment
- January 28, 2020 – Special Permit Extension – 7 months
- February 4, 2021 – Special Permit Extension
- September 23, 2021 – Special Permit Extension
- April 12, 2022 – Special Permit Extension – expired December 2022
- April 11, 2023 – Special Permit Extension – expired December 2023
- January 1, 2024 (retroactively issued 6/12/24) – Special Permit Extension – expired 12/31/2024 – **Permit Tolling Effective – New permit expiration date 1/1/2026**

As a condition of the 1/1/24 extension, the applicant was to file bimonthly progress reports. Since then, progress reports were received only on 7/2/24. An email was received from the applicant on 2/5/25 stating that they would be working on filing a report back to the Board as soon as they can.

**New Permit Tolling Period** The Economic Development Bond Bill signed by Gov. Healey in November 2024 included a new permit tolling period from January 1, 2023 to January 1, 2025. A summary of which follows. Therefore, it is my understanding that the Special Permit extension issued on 1/1/24 remains in effect until 1/1/2026.

Date when tolling period began	Date of Issuance of a permit	Original Expiration Date of a permit	# days permit is tolled	End of tolling period	new tolled expiration date
1/1/2023	1/1/2024	12/31/2024	365	1/1/2025	1/1/2026

Permit Tolling Guidance from Mead, Talerman and Costa:

“Third, a new “tolling period” (January 1, 2023 to January 1, 2025) has been implemented for any “approvals” (i.e. permits-including building permits, certificate, order-excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, etc) granted by any state or locate agency, department, commission or instrumentality and “environmental permits” (including certificates, licenses, certifications, exemptions, variances, waivers, building permits, or other approvals or determinations of rights). The statutes under which the environmental permits fall for the purposes of the tolling period are numerous, and include Chapters 21, 21A (except section 16),

21D, 30A, 40, **40A** through 40C, 40R, 40Y, 41, 43D, 91, 131, 131A, 143, 258, and Chapter 665 of the Acts of 1956, and any local by-law or ordinance. Specific statutory sections include, c. 30, §§61 to 62L, c. 81, § 21, and c. 249, §§ 4 and 5. The tolling period does not apply to approvals or environment permits of the federal government, Massachusetts Division of Fisheries and Wildlife, administrative actions of the Massachusetts Department of Energy Resources, or agreements entered into by MassDOT or MBTA. However, even where this tolling provision applies, a municipality may nevertheless revoke or modify any permit, approval, or extension of a permit or approval where either the permit or approval (or extension) or the law or regulation under which the permit, approval, or extension, contains language that it may be modified or revoked. This is very broad, so towns and cities may consider amending language in their permitting regulations and approvals to provide for modification or revocation if not already provided.”

**Action Needed:** I have submitted the information above to Town Counsel for guidance. This matter has also been submitted to the Town Administrator for review.

### AGENDA ITEM #9 Discussion of Subdivision Regulations

In July 2023, the Planning Board began working on updates to the 1995 Subdivision Regulations. The updates to these regulations were being undertaken as part of a comprehensive revision that included coordinated review and amendment of the Flexible Development Bylaw. Subdivisions are allowed by right and have no requirements for the protection of open space, natural, scenic or historic resources on the site (local, state and federal laws and regulations do apply). Flexible Developments do require open space and natural/scenic/historic resource protections but are permitted through discretionary Special Permits. The intended approach was to reverse this and allow for the preferred development scheme (clustered housing with open space conservation) to be permitted by right with Site Plan Review to incentivize its use and thereby discourage the less desirable form of residential development in the form of standard subdivisions. However, Town Meeting didn't support this strategy and the amendments to the Flexible Development Bylaw, and associated supporting bylaws, were not adopted.

In updating the Subdivision Regulations, the approach should continue to be to address shortcomings identified in the Subdivision Regulations through recent project permitting and strengthen review standards with up-to-date design standards and best practices.

*A revised package of Articles I thru XII was sent to Board members on 12/6/2024 and on 1/21/25.* The revised package includes the following changes:

- Article VIII Submission and Approval of Plans for More Than One Building for Dwelling Purposes Per Lot has been added. This is Article VI in the current Town of South Hadley Subdivision Regulations.
- Articles VIII thru XII have been renumbered to accommodate the insertion of Article noted above.
- Article XI Required Improvements for Subdivisions has been expanded to include “and Developments for More than One Building for Dwelling Purposes per Lot”
- Updated page numbers for Articles IX thru XII.

### Status of Proposed Regulations Review by Article

In past meetings, the Board completed review of the following:

- Articles I thru VI, and Article VII, 360-26 and 360-27
- Article IX Design Principles and Standards (*renumbered as Article X*)
- Article X Required Improvements for Subdivisions (*renumbered as Article XI*)

**\*\*Meeting dates below are linked to the recording of that meeting; posted minutes link below date.**

<b>Meeting Date</b>	<b>Topic</b>
<a href="#">July 24, 2023</a> <a href="#">Minutes</a>	Introductory presentation
<a href="#">September 11, 2023</a> <a href="#">Minutes</a>	Article IX Design Principles and Standards ( <b>currently Article X</b> )
<a href="#">September 25, 2023</a> <a href="#">Minutes</a>	Article IX Design Principles and Standards ( <b>currently Article X</b> )
<a href="#">October 2, 2023</a> <a href="#">Minutes</a>	Article IX Design Principles and Standards ( <b>currently Article X</b> )
<a href="#">November 27, 2023</a> <a href="#">Minutes</a>	Article X Required Improvements for Subdivisions ( <b>currently Article XI</b> )
<a href="#">December 4, 2023</a> <a href="#">Minutes</a>	Article I Authority and Purpose Article II General Article III Definitions Article IV Pre-submission Review Article V Plan Believed Not to Require Approval (ANR Plans) Article VI Preliminary Plans
<a href="#">December 18, 2023</a> <a href="#">Minutes</a>	Article VII Definitive Plan (360-26 General, 360-27 Submission)

At the 12/18/23 meeting, the Board decided to table review of the regulations to begin work on the Flexible Development Bylaw and associated bylaws. After addressing incorporation of “multiple buildings for dwelling purposes on one lot” back into the regulations, we should resume review with Article VII Definitive Plan.

**Action Needed:**

1. Review Article VIII Submission and Approval of Plans for More Than One Building for Dwelling Purposes per Lot. This section was added back into the Regulations. Discuss potential changes to Article VIII to address ADU allowance for parcels with more than one dwelling for residential purposes per lot.
2. Review Article IX Pre-Endorsement, Endorsement, Performance Guarantees, and Implementation of Definitive Plan
3. Review Article XI Required Improvements for Subdivisions for the addition of “and Developments for More than One Building for Dwelling Purposes”

4. Review Article XII Administration
  
5. Review Appendices (at a future meeting)

**AGENDA ITEM #10 Planning & Conservation Department Report on Planning Projects and Development Updates**

**A. Next Planning Board Meetings and Other Important Dates**

*Planning Board typically meets the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of the month.*

<b>2/24/25</b>	ADU Bylaw Amendments Discussion
<b>3/1/15</b>	<b>Town Budget Community Meeting 9am-noon</b>
<b>3/10/25</b>	Route 202/33 Zoning Recommendations Discussion
<b>3/24/25</b>	ADU Bylaw Amendments – Public Hearing
<b>4/14/25</b>	Route 202/33 Zoning Recommendations – Public Hearing
<b>4/28/25</b>	
<b>5/5/25</b>	Business A-1 Design Guidelines & Route 202/33 Corridor Design Guidelines Discussion
<b>5/14/25</b>	<b>Annual Town Meeting</b>
<b>5/19/25</b>	<ul style="list-style-type: none"> <li>• Business A-1 Design Guidelines Public Hearing</li> <li>• Route 202/33 Corridor Design Guidelines Public Hearing</li> </ul>
<b>6/1/2025</b>	<b>Business A-1 Mixed Use Permitting Moratorium Expires - Design Guidelines Adoption Due</b>
<b>June – 6/9 &amp; 6/23</b>	

**B. Planning Board 2025 Priorities**

The following items are on the docket for FY25:

<b>Item</b>	<b>Comments</b>
<b>Business A-1 Design Guidelines</b>	Due by June 1, 2025; Moratorium on permitting under the amendment expires 6/1/25
<b>ADU Bylaw Amendments</b>	Amendments required for compliance with the Affordable Homes Act ( <a href="#">Chapter 150 of the Acts of 2024</a> ). Changes to MGL c40A go into effect 2/2/25. EOHLIC has issued final regs: <a href="#">ADU-Regulations-CMR-71---FINAL-1172025</a>

<p><b>Route 202/33 Corridor Zoning Bylaw Amendments and Design Guidelines</b></p>	<p>The project schedule has the Advisory Committee sending these to the Planning Board in February/March for review and discussion, finalizing a draft, public hearing, and then to Town Meeting for May 2025. I'm not sure this timeframe is feasible at this point. Fall Town Meeting seems more realistic.</p>
<p><b>Sign Bylaw Amendments</b></p>	<p>255-85 is in conflict with a 2014 Supreme Court decision (<a href="#">Reed v. Town of Gilbert</a>) which addresses neutral content of signs. Planning Consultant Richard Harris has prepared a detailed review and recommendations. The Board needs to identify when they want to take this up.</p>
<p><b>Agricultural Uses in Zoning Bylaw Amendments</b></p>	<p>Agricultural uses within the zoning and general bylaws, as well as Board of Health regulations, are in conflict. Planning Consultant Richard Harris has prepared a detailed review and recommendations. The Board needs to identify when they want to take this up.</p>
<p><b>Water Supply Protection Bylaws</b></p>	<p>PVPC prepared a review of zoning and general bylaws in regards to water supply protection in 2021 (issued January 2022). Advisory Committee to be reconvened.</p>

**SOUTH HADLEY PLANNING BOARD  
LIST OF CORRESPONDENCES  
FEBRUARY 10, 2025 REGULAR MEETING**

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**Letters and Memos**

- January 21 email (attached) from Martha Terry, 25 Brainerd Street, regarding the differences between expansion of preexisting nonconformities and creation of new nonconformities.
- January 26 email (attached) from Renee Sweeney, Chair of the Human Rights Commission, indicating the commission’s support for the Town’s Housing Production Plan
- January 28 letter (attached) from Martha Terry, 25 Brainerd Street, with slideshow materials regarding ‘Vested Rights and Nonconforming Uses’ ([link](#)).
- January 28 letter (attached) from Denise Presley, 12 The Knolls, regarding development progress at 27 Bardwell Street including December 31, 2024 photographs (attached); 2018 recorded property deed transfer to Orange Park Management LLC ([link](#)); 2018 recorded property deed transfer to Yi Sheng Inc ([link](#)); and 2020 recorded commercial mortgage and property agreement ([link](#)).

**Legal Notices**

*Amherst*

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*Chicopee*

- Notice from the Chicopee Planning Board for public hearings on February 6 to consider the following: 1) Modified Definitive Site Plan for circulation and parking at existing commercial development at 246 McKinstry Ave; 2) Zone Change from Business A to Residential B to eliminate split zoning at the property located at 519 Chicopee Street; and 3) Waiver of Frontage to create new single-family building lot off 39 Polaski Ave.

*Granby*

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*Hadley*

- Notice from the Hadley Planning Board for approval of the following: 1) Home Occupation Special Permit for teaching horseback riding at 139 Mt. Warner Road; and 2) Site Plan Approval and Business Use in Aquifer Protection District Special Permit for dentist office at 101 East Street

*Holyoke*

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## Fwd: document attached

1 message

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**Anne Capra** <acapra@southhadleyma.gov>  
To: Colleen Canning <ccanning@southhadleyma.gov>

Tue, Jan 21, 2025 at 3:06 PM

Hi Colleen,  
Please add to the Board's communications.  
Thanks,  
Anne

----- Forwarded message -----

From: **Martha Terry** <marthatterry25@gmail.com>  
Date: Tue, Jan 21, 2025 at 2:35 PM  
Subject: document attached  
To: Anne Capra <acapra@southhadleyma.gov>

hi anne

someone with better computer skills than me, was able to cut and paste this slide attached to this email as an explanation for what is a new nonconformity that requires a variance. This slide is from the CPTC's on line training from about two years ago. Quite a few local people (ZBA and PB members) attended. This should make it clear as to what is the extension of a preexisting dimensional nonconformity and what is a new nonconformity which can only be granted by the Zoning Board of Appeals after the applicant meets the very strict Mass. state standards.

In the past, just to make the matter much more simple, we have been able in just about every case to work kindly with an applicant, if such is necessary, to show him/her that they can have the same square footage of an addition if they just adjust its position so that a variance is no longer required.

mt

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**Anne Capra, AICP**  
Director, Planning & Conservation  
Town of South Hadley  
116 Main Street | South Hadley, MA 01075  
(413) 538-5030 x6128  
[acapra@southhadleyma.gov](mailto:acapra@southhadleyma.gov)

**Learn more about South Hadley's community plans [HERE](#).**

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 **preexisting nonconformity, extension of; what is a new nonconformity.docx**  
324K



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## South Hadley Human Rights Commission supports South Hadley's Housing Production Plan

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**Renee Sweeney** <rsweeney@southhadleyma.gov>

Sun, Jan 26, 2025 at 12:05 PM

To: Renee Sweeney <rsweeney@southhadleyma.gov>

Bcc: ccanning@southhadleyma.gov

The South Hadley Human Rights Commission approved the following statement at their January 22, 2025 meeting.

Thank you for your attention and consideration.

Sincerely,  
Renee M. Sweeney  
Chair, South Hadley Human Rights Commission

### Statement of Support for the South Hadley Housing Production Plan

We stand in strong support of the South Hadley Housing Production Plan. This plan represents a crucial step towards realizing fundamental human rights and fostering a more welcoming and inclusive community for all.

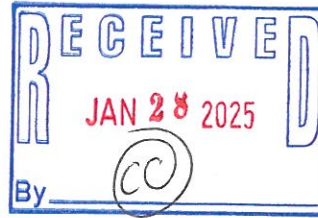
Access to safe, stable, and affordable housing is a basic human right. This plan acknowledges that principle and seeks to address the urgent need for diverse housing options within South Hadley. By promoting the development of a variety of housing types, the plan aims to ensure that individuals and families of all backgrounds and income levels have the opportunity to live and thrive in our town.

This Housing Production Plan is more than just bricks and mortar; it's about building a community where everyone feels they belong. It prioritizes:

- **Inclusionary Zoning:** Encouraging the development of affordable housing units within new developments, promoting mixed-income neighborhoods.
- **Diverse Housing Options:** Supporting the creation of housing that meets the needs of seniors, young families, individuals with disabilities, BIPOC families, and other marginalized populations with unique housing needs.
- **Removing Barriers:** Identifying and addressing regulatory barriers that prevent the development of affordable housing.
- **Community Engagement:** Prioritizing community input and participation in the planning and development process.

A community that embraces diversity and inclusivity is a stronger, more vibrant community. By implementing this Housing Production Plan, South Hadley can create a more welcoming and supportive environment where all residents can feel safe, secure, and have the opportunity to reach their full potential.

January 28, 2025



Dear Anne,

I would like you to kindly copy and distribute this document to the Planning Board members and the Associate. I had problems with attaching the document and sending it electronically, hence I am submitting a hard copy to you. I am sharing this as a citizen, and not with any affiliation with any committee or board on which I currently serve.

I am unsure if any members/the associate of the Planning Board have this informative document, though some Planning Board members did attend this training session sponsored by the Citizen Planner Training Collaborative and conducted by Attorney Ilana Quirk.

Of particular interest at this point in time, with an upcoming hearing on the expansion of a nonconforming structure, are pages/power point slides 13-22 that have explanations plus diagrams of what constitutes the difference between the expansion of an existing dimensional nonconformity and the creation of a new nonconformity which requires a variance from the Zoning Board of Appeals.

Also, of particular relevance, are pages/power point slides 31-38 which contain the Powers Test for the change of a nonconforming use.

Thank you for passing this document onto the Planning Board members and the associate, and I apologize for the duplication if anyone does have this document.

Sincerely,

Martha Terry

# DENISE PRESLEY

January 28, 2025

VIA ELECTRONIC MAIL

Diane Supczak-Mulvaney, Chair  
Nate Therien, Vice Chair  
Joanna Brown, Secretary  
Brad Hutchison, Member  
Rob Watchilla, Member  
John Parenteau, Associate Member  
Anne Capra, Director

South Hadley Planning Board  
116 Main Street  
South Hadley, MA 01075

RE: 27 Bardwell, South Hadley

Dear South Hadley Planning Board Members and Staff:

Last night's Planning Board meeting was abruptly cancelled. I'm uncertain of my availability to attend the next scheduled meeting so I'm writing to request a report on the status of the above-referenced housing project.

I walked around the property last month, and took photos of what appear to be 5 or 6 very nice vacant units. I then checked the Hampshire County Registry to look at the chain of title and learned the Town sold the property to a developer on June 18, 2018 for \$40,000 subject to a March 18, 2015 Development Agreement. Immediately, the developer sold it to another developer for \$80,000 subject to said Agreement, which provides that if six units are not completed within 24 months pursuant a proposal presented to the Town in 2014, the developer would pay the Town \$2,000 per month until issuance of a certificate of occupancy. The developer also committed to spend \$600,000 to construct the units. A \$550,000 mortgage on the property was recorded on October 26, 2020.

For many months I've heard the Town has a housing crisis. To address this complaint, the Planning Board has been willing to allow developers to disrupt neighborhoods, clear cut environmentally and ecologically important trees, and risk contaminating land in the Water Protection District. So I'm baffled by the fact that these units have sat vacant for so long. I realize six units won't address the need you and your consultants say exists, but six units of quality housing 'ain't nothing'.

I also understand the Planning Board has given the developer numerous extensions. But isn't the point of the liquidated damages clause of \$2,000/ month to provide an incentive for the developer to perform per the Agreement? Otherwise the project could languish, which is precisely what's happened.

Notwithstanding your extensions, a fact analysis might support a finding that the developer is in breach of the Agreement. Regardless, I just paid my real estate bill so I'm curious about what the Town is doing to enforce the Agreement, create more 'small a' affordable housing, and protect taxpayer's interests. I look forward to the Board's report on this matter.

Very sincerely,

/s/ Denise L. Presley

Copy: Lisa Wong, Town Administrator



**Anne Capra**

to me ▾

Please add this with Presley's correspondence.

----- Forwarded message -----

From: Denise Presley <[lindellpresley@gmail.com](mailto:lindellpresley@gmail.com)>

Date: Wed, Jan 29, 2025 at 1:10 PM

Subject: 27 Bardwell (2 of 2)

To: Lisa Wong <[lwong@southhadleyma.gov](mailto:lwong@southhadleyma.gov)>, Anne Capra <[acapra@southhadleyma.gov](mailto:acapra@southhadleyma.gov)>

Photos, taken December 31, 2024.

