

Background Materials – June 27, 2022 – Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 6/24/22

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

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 posted on the Town of South Hadley Planning and Conservation Department webpage here: [Policy-on-Open-Comment-Period---As-Adopted-2021-03-08 \(southhadley.org\)](https://southhadley.org/Policy-on-Open-Comment-Period---As-Adopted-2021-03-08)

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

AGENDA ITEM #2 Minutes

Senior Clerk Colleen Canning will forward the minutes of the 6/13/22 meeting separately.

Action Needed: Vote to approve the minutes.

AGENDA ITEM #3 Correspondence

A list of correspondence received is attached.

Action Needed: No action needed.

Agenda Items #4 and #5 – Bed and Breakfast Special Permit Applications – Background Information

In April 2022, Building Commissioner David Gardner sent cease and desist letters to 12 property owners operating short term transient lodging in whole or part of their properties, as advertised through the online booking platform AirBNB. According to Mr. Gardner, the only means to permit short term rental use in South Hadley is as a Bed-and-Breakfast Home or Inn via Zoning Bylaw Section 255-39. According to Mr. Gardner, because the zoning bylaw is silent on any other type of short-term rental operation, they are prohibited. I have requested an interpretation of this opinion from Town Counsel and guidance for how such uses may be allowable 1) under the existing zoning bylaw, 2) through amendment to 255-39, and 3) through adoption of a new bylaw. The primary questions under consideration for opinion from Town Counsel is at what point is something merely the rental of a dwelling unit or part thereof and when does such rental become a Bed-and-Breakfast, “Lodging House”, “Motel” or “Hotel”. Therefore, until guidance has been provided by Town Counsel, the Building Commissioner, acting as the Zoning Code Enforcement Officer, is requiring Special Permits for the short-term rental enterprises operating at these locations.

Section 255-39 Bed-and-Breakfast Facilities

<https://ecode360.com/30053385>

Bed-and-Breakfasts Facilities (BnB) are allowed by Special Permit in Residence A-1, A-2, and Agricultural zoning districts. They are prohibited in all other zoning districts.

255-39 (A)(1) Bed and Breakfast Home definition

The Planning Board may issue a special permit for a bed-and-breakfast home that is an existing owner-occupied single-family dwelling (including existing accessory structures located on the property) in which the resident or residents of the dwelling provide overnight lodging to paying guests in a maximum of three guest bedrooms located within the dwelling. No person may occupy said room or rooms more than 14 days in any thirty-day period. The home shall function as a private home with house guests.

255-39 (B)(1) Bed and Breakfast Inn definition

The Planning Board may issue a special permit for a bed-and-breakfast inn that is an existing structure in which the resident or residents of the dwelling provide overnight lodging to paying guests in a maximum of 10 guest bedrooms located within the building. No person may occupy said room or rooms more than 14 days in any thirty-day period. The inn shall function as a private home with house guests.

In addition to the Special Permit requirements of Zoning bylaw Chapter 255 Article IX, there are eight (8) requirements that must be met as a condition of approval of a Bed and Breakfast Facility:

- (a) No cooking facilities are permitted in any guest room; and
- (b) There shall be no substantial change to the exterior of the building; and
- (c) One parking space shall be provided for each room to be occupied by bed-and-breakfast lodgers in addition to the parking required under § 255-86; and
- (d) If such facility is to be served by an existing on-site septic system, the owner shall obtain a letter from the Board of Health that the sewage disposal system is adequate for the proposed use; and
- (e) Signage shall be limited to an announcement sign as permitted under this § 255-39.
- (f) Breakfast shall be the only meal prepared for and served rooming guests in the bed-and-breakfast home; but the bed-and-breakfast home may also provide a "box lunch" for the rooming guests. Rooming guest occupants are provided at least one daily meal as part of their occupancy. No meals are to be provided for a fee to persons not residing in the bed-and-breakfast home.
- (g) Bed-and-breakfast homes or bed-and-breakfast inns may only be permitted for those structures existing as of May 10, 2014.

There are some additional conditions for BNB Inns per 255-39 (B)(2).

A spreadsheet containing all of the conditions for approval per 255-39 and Article IX is being provided to the Planning Board or your use in reviewing the applications. It is my understanding that the term "must" in meeting the conditions for approval does not allow the Board to grant waivers for any of the conditions. The Planning Board acting as the Special Permit Granting Authority shall decide to approve, approve with modifications or conditions, or disapprove an application for a special permit.

6:30 PM AGENDA ITEM #4 Special Permit Public Hearing – Bed and Breakfast Home, 629 Granby Road

Application is online here:

<https://www.southhadley.org/DocumentCenter/View/9599/Application?bidId=>

A Special Permit application has been filed by Stephen and Sheila Moos for an existing short term rental business they operate at 629 Granby Road, Assessor's Map 3, Parcel 16 in the RA1 zoning district. This application for a Special Permit has been filed in response to a cease and desist order issued by the Building Commissioner/Zoning Code Enforcement Officer for this use.



The facility described in the application is the whole house rental of a four-bedroom house, with one bedroom set aside for the owner or the owner's representative, as allowed by 255-39 (A)(4). The property is on town sewer, has parking via a driveway off of Granby Road, has no signage, and the building has been in existence since May 10, 2014. The property abuts the Granby Town line and the Granby Motel. I have requested information from the Building Commissioner regarding any complaints received by his department related to this rental property and none have been provided.

Departmental Comments

Building Commissioner, David Gardner – Request that conditions requiring a business license from the Town Clerk, a Lodging House license from the Health Department, and compliance with building code regulations are required.

Police Department, Chief Gundersen – No comments or issues on my end.

Town Collector, Donna Whiteley – No issues with my office. Taxes are paid timely and current.

Water Department Fire District #1, Jeff Cyr – I have no objections.

Fire District #1, Captain Houle – We are meeting with the engineer from the State Fire Marshalls office and I will be in touch after that.

Recommendations: Utilizing the spreadsheet with conditions for approval provided, discuss each standard and make a finding.

Recommended Special Conditions:

1. Obtain a business license from the Town Clerk.

2. Obtain a Lodging House license from the Health Department.
3. Compliance with building code and fire code regulations are required.
4. The applicant must obtain all other local, state, and/or federal approvals for the activity authorized by the Special Permit.

Action Needed: Hold the Public Hearing. If the Board closes the Public Hearing, a Decision must be made within 90 days and filed with the Town Clerk.

7:00 PM AGENDA ITEM #4 Special Permit Public Hearing – Bed and Breakfast Inn, 15 College View Heights

A Special Permit application has been filed by Lynn Williams for an existing short term rental business she operates at 15 College View Heights, Assessor's Map 51, Parcel 71. This application for a Special Permit has been filed in response to a cease and desist order issued by the Building Commissioner/Zoning Code Enforcement Officer for this use. This is an owner-occupied single-family home in the RA1 Zoning district. Ms. Williams obtained a business license from the Town Clerk on 2/4/19 for this rental doing business as "The South Hadley Suite". The rental is for two bedrooms and a common area with a kitchenette with a microwave and coffee maker on the lower level of her house. Breakfast is provided, two parking spaces, and a small plaque at the entrance. The property is on town sewer. Note – the application mistakenly says it is for a BnB Inn but the number of occupants suggest it is appropriate for a BnB Home.



Application is online here:

<https://www.southhadley.org/DocumentCenter/View/9598/Application?bidId=>

Departmental Comments

Building Commissioner, David Gardner – Request that conditions requiring a business license from the Town Clerk, a Lodging House license from the Health Department, and compliance with building code regulations are required.

Police Department, Chief Gundersen – No comments or issues on my end.

Town Collector, Donna Whiteley – No issues with my office. Taxes are paid timely and current.

Water Department Fire District #1, Jeff Cyr – I have no objections.

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Recommendations: Utilizing the spreadsheet with conditions for approval provided, discuss each standard and make a finding.

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3. Compliance with building code and fire code regulations are required.
4. The applicant must obtain all other local, state, and/or federal approvals for the activity authorized by the Special Permit.

Action Needed: Hold the Public Hearing. If the Board closes the Public Hearing, a Decision must be made within 90 days and filed with the Town Clerk.

AGENDA ITEM #5 Set Performance Guarantee for Stormwater Management Permit and Special Permit issued to EINK Corporation for Industrial Redevelopment at 7 Gaylord Street

Special Permit Performance Guarantee is also serving as the Stormwater Management Performance Guarantee. Eink submitted an itemized cost estimate for the stormwater drainage improvements on 5/27/22, as revised 6/9/22 in the amount of \$246,205.40. This estimate has been reviewed by DPW Director Chris Bouchard and he is in agreement with the cost estimation as of now. But due to supply chain issues and inflation, he suggests that the price may be higher six months from now and is recommending the guarantee be held at \$295,000. I recommend the performance guarantee not be released for one year after the system has been fully operational and special permit conditions have been met.

Recommended Motion: Move to require a performance guarantee be held in the amount of \$295,000 in the form of cash or line of credit, and be held jointly for the Special Permit and Stormwater Management Permits.

AGENDA ITEM #6 Planning & Conservation Department Report on Planning Projects and Development Updates

MVP Action Grant – Queensville Dam Removal Feasibility Study and Butter Brook Watershed Improvements Study

One of the tasks under the above referenced grant funded project was to install a street painted mural on Main Street where Buttery Brook is culverted to bring awareness to Buttery Brook and beautify the Falls area. The mural, completed last week by artist Simone Germain, was featured on the front page of the Republican in the 6/24/22 issue. Check out the mural!

As part of the outreach to locate an artist for the street mural, Conservation Administrator Rebekah Cornell became in touch with the Mount Holyoke College Art Program and connected the class to Buttery Brook Park for the creation of the new mural installation there. An installation opening was held earlier in June. The Buttery Brook mural installed at the park building is absolutely beautiful and a wonderful addition to the park!



Housing Production Plan Update Consultant Selection

We received three applications from consultants for the Housing Production Plan update. Proposals have been reviewed by a committee consisting of the Building Commissioner, Assessor, Council on Aging Director, Housing Authority Director, Alternate Planning Board Member, and Director of Planning and Conservation. I am in the process of checking references for the preferred consultant and expect to make and Notice of Award next week.

REDO Grants

Applications for the South Hadley Falls Façade Improvement Grant and the Village Commons District Outdoor Activation Grant have closed. I am in the process of reviewing applications and will make award notifications next week.

AGENDA ITEM #7 Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

No new business had been submitted to me as of today.

**SOUTH HADLEY PLANNING BOARD
LIST OF CORRESPONDENCES
JUNE 27, 2022 REGULAR MEETING**

Letters & Memos

- Email received June 17, 2022 from Susan Newton, Chair of the South Hadley Democratic Committee, with comments regarding the Planning Board's Open Comment Period Policy.

Legal Notices

Amherst

- Notice received from the Amherst Planning Board for a public hearing on June 29, 2022 to consider an application for Site Plan Review for a Dog Park located at 95 Old Belchertown Road.
- Notice received from the Amherst Planning for filing a decision to approve a 3-lot Definitive Subdivision Plan at 446 and 462 Main Street.

Chicopee

- Notice received from the Chicopee Planning Board for a public hearing on July 14, 2022 to consider a 'new annual all alcohol general on premise license' for the J&W Banquet Hall located at 66 Cabot Street.

Granby

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Hadley

-

Holyoke

-

Fwd: Concerns about Open Comment Period Policy

Colleen Canning <ccanning@southhadleyma.gov>
To: Colleen Canning <ccanning@southhadleyma.gov>

Fri, Jun 24, 2022 at 10:15 AM

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

From: **Susan Newton** <susannewton2025@gmail.com>
Date: Fri, Jun 17, 2022 at 5:55 PM
Subject: Concerns about Open Comment Period Policy
To: <acapra@southhadleyma.gov>

Dear Ann and Brad,

At our monthly meeting of the South Hadley Democratic Town Committee, there was some confusion and concern about language in the "Planning Board Open Comment Period Policy" document (see attached). As chair of the SHDTC, which in turn works to encourage public participation, I'm reaching out to see if you can clarify the language.

The concern is around language in Section 3(h), specifically the last sentence: "Further the public hearing is the appropriate time in which make [sic] such comments." Some of our members have pointed out that this seems to restrict discussion between and among members of the general public outside a Planning Board meeting. Presumably, of course, it's not the intent of the Board to restrict speech in that way, but rather to ask attendees to hold their remarks about matters pertaining to a public hearing until the public hearing portion of the meeting.

Is it possible for that sentence to be modified in some way, perhaps along the lines of "Further, during a Board Meeting, the time set aside on the Agenda for a hearing is the appropriate time to raise any matter concerning the subject of that hearing, rather than during the Open Comment Period." This is only suggested language, of course, but could help resolve some of the concerns among citizens about the circumstances under which they're allowed to discuss matters before the Planning Board.

Respectfully,
Susan Newton, Chair

South Hadley Democratic Town Committee
PO Box 82, South Hadley, MA 01075
southhadleydemocrats.blogspot.com

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 **Policy on Open Comment Period - As Adopted 2021-03-08-2 (1).pdf**
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