



Town of Southwick

Planning Board

MINUTES



Tuesday, September 20, 2022
7:00 PM (recorded)
Town Hall Land Use Hearing Room

Written Minutes

(Not verbatim - comments can be heard on recordings available at www.southwickma.org)

MEMBERS IN ATTENDANCE: Michael Doherty, Chair
Marcus Phelps, Vice Chair
Richard Utzinger
David Sutton
David Spina
Jessica Thornton, Associate

ABSENT: None

TOWN STAFF: Jon Goddard, Town Planner
Meghan Lightcap, Secretary

Also attending the meeting were approximately 20 members of the public and several people via Zoom.

The “hybrid” meeting of the Planning Board was scheduled for participation in-person and via Zoom to take place at the Town Hall Land Use Hearing Room and was called to order at 7:02 p.m. by Mr. Doherty. He stated that the meeting was being recorded and asked if anyone else was recording the meeting.

TOWN PLANNER’S REPORT: 7:00 p.m.

1. Met with Devin Arnold about a proposed driveway relocation presented as a minor plan modification at 113 Mort Vining Road.
2. There has been ongoing coordination for Greens West bond; there is a \$35,000 estimate by Randy Brown that we are working to tidy up.

3. Over at Feeding Hills Road we had an early conceptual meeting regarding micro grid additional solar array added to the one across from Powdermill School. The meeting is in October with the Select Board.
4. The comment period closed on the Chapter 91 License for 141 Congamond Road. The Planning Board submitted a brief letter to Christine Hops over at the waterways program reiterating the condition they put in place.

PUBLIC COMMENTS: 7:05 p.m.

No comments were submitted or presented to the Board.

APPOINTMENTS:

7:10 p.m “Comprehensive Impact Statement” Handbook (a.k.a. “Comprehensive Impact Study” Handbook) under 185-9.7 *Major Development Review* bylaw

Continued Public Hearing

Mr. Goddard shared the working document to his screen for everyone to see and reminded them that they were working on the traffic portion at the last meeting. He also showed everyone the TIA guidelines that Mr. Phelps had shared; specifically the language in Section 1.A. The Board had further conversation about what parts to include from that section and Mr. Phelps said it may be best to include all parts. Mr. Doherty asked the Board members to look at Section 5 and asked if they thought that referencing this section would cover what they are trying to convey. He asked them to get back to him at the next meeting on what they think. Diane Gale of 5 Point Grove Road encouraged keeping the financial info for the committee meeting part and Mr. Doherty said he is still looking at that but they will cover that for the next meeting.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for the Comprehensive Impact Statement Handbook to October 4, 2022 at 7:10 p.m.

The motion passed unanimously.

Estate Lot Special Permit & Site Plan Approval Application

7:30 p.m (Land off Hillside Road at Meadow Lane- Map 38, Parcel 11-Residential 40 Zone)

Public Hearing

Mr. Goddard read the Public Notice and the applicant representative Alexandra Cichetti of R. Levesque Associates, Inc introduced herself as well as the applicant; Oleg Kulyak. She shared the site plans onscreen via Zoom and said the applicant proposes to create an Estate Lot with a Single Family home and driveway leading out to Meadow Lane. The property is in the R-40 zone and is undeveloped, forested land with no work proposed on wetlands. Mr. Phelps asked about the frontage and Ms. Cichetti said it is along Meadow Lane; 60 feet of frontage with an access width of 200 feet.

She said they added an anti tracking pad after reading the DPW Director, Randy Browns comments. Mr. Phelps asked if the cul-de-sac on Meadow Lane touches the property boundary and Ms. Cichetti said yes but there is no easement needed. Mr. Goddard read the DPW Directors comments on the plan and then read the responses back from Ms. Cichettis' office.

Kurt Toomey of 17 Meadow Lane said he is concerned with the use of the property as Meadow Lane is a residential neighborhood and he had heard that the new site is going to be a farm. He said there are livestock on the property set back in a pen and they have a covenant that restricts farm animals; he gave the Board members a copy of the covenant. The applicant, Oleg Kulyak of 7 Deer Run Road said this will only be a single family home but he will have some livestock on it and this is acceptable in the R-40 zone. He said this property doesn't fall under the jurisdiction of the covenant. Mr. Toomey urged the Planning Board to understand that they trying to protect their neighborhood and investment. Linda Mizanoglu of 19 Meadow Lane asked the Board why this lot is not part of the covenants, why the lot is being clear cut and why the Conservation Commission is not involved. She urged the Board to look into this and said there are cameras on the property. Jeff Parentella of 1 Stage Coach Road asked if this would be made into farm zone in the near future and is this property the only spot he can build on. Madeline Mizanoglu of 19 Meadow Lane asked if this house would be numbered on Meadow Lane and if so then why wouldn't it fall under the covenant.

Mr. Doherty told the meeting members that it is not part of the original subdivision so it's not subject to the restrictions. He said covenants are only good for 30 years anyway which they are coming up on in 2024 depending on when they were filed with the Registry of Deeds and they may not be able to extend them. Mr. Doherty said he doesn't think they can allow the covenant by they will definitely consider it when making a decision.

Linda Mizanoglu said there were 2 new lots built on recently and they followed the covenant and Mr. Doherty said that is because those lots are part of the subdivision. Fred Filios of 23 Meadow Lane said he was raised on a farm and has no problem with a couple of animals. He said that he has talked to Mr. Kulyak who said he would not clear cut the land but that he is doing just that and now he has an issue with his credibility. Mr. Filios said he thinks the Planning Board, Conservation Commission, Forestry people and even Fire Department should be concerned because this is "Slippy". He said way more than an acre has been disturbed and if you have not been up there you should and once this is approved it's hard to say how far he will go. Mr. Filios said he understands the covenant issue and that is not part of Meadow Lane but Mr. Kulyak will be using Meadow Lane.

Mr. Doherty asked if anyone had a copy of the Forestry plan and Ms. Mizanoglu brought it up for the Board to see. Mr. Kulyak addressed the suspicion of why cameras were set up on his property and said that people have been ignoring the no trespassing signs he put up so he added cameras. Police were called for a neighbor trespassing and walking his dog on the property. He said there is a logging plan and the Conservation Coordinator was there and walked the site with him. He said this is not going to be a farm, just a home with a few animals and they will not be visible from the road. Mr. Kulyak said most of the trees removed are timber trees and nothing for the house and driveway have been touched. He said he has two cows, several goats and chickens. Mr. Doherty asked him where the proposed pens will be located and Mr. Kulyak described them as being near the area marked Lot A on the plans. Mr. Doherty told him that he understands that he is trying to get the best of both worlds; a farm in a subdivision but he has to respect his neighbors. Kevin Meder of 10 Dairy Lane asked what the guarantee is that the animals will not

expand and if there are proposed buildings for them, why are they not on the plans. Mr. Kulyak said the cows there now currently have a three sided shelter and he would like to eventually put up a three stall barn and will apply for that permit when the time comes. Mr. Doherty reminded him that in that zone there is a limitation for personal use. Anthony Frasco of 8 Meadow Lane said he hopes Oleg will be a good neighbor and would like to see something in writing especially on this already decaying road. Ms. Mizanoglu said her husband has been on the Conservation Commission for 21 years and he is the only one on the commission that has been there on the property. She said she called Dennis Clark and Mr. Doherty told her that Mr. Clark is no longer the Conservation Commissioner and the logging permit does not come from the Con Com, it comes from the state, although they were consulted on this and they are aware of it. Mr. Kulyak said that on July 27 Sabrina Pooler, the Conservation Coordinator, walked the site with him. Mr. Meder cautioned the Board about the animal waste and how it will affect the ground water. Brian Leduc of 5 Stagecoach Road said that with a 1 acre estate lot adding accessory buildings does trip a Stormwater Permit and if Mr. Kulyak clears along the current plan he will have to stump it tripping a stormwater plan. Mr. Filios said the applicant is logging in the area not proposed for the site plan and urged the Planning Board members to go visit the site. He asked Mr. Kulyak is he would have a rooster and if he would have any uncastrated male goats as they stink. Mr. Kulyak said no to both questions. Madeline Mizanoglu said she is 20 years old and she is just trying to protect their neighborhood, they are concerned with the general environment. Charlie Bonatakis of 21 Meadow Lane said Mr. Kulyak should have been given those covenants for the property and Mr. Doherty said these are not given out because they don't go with his property. Mr. Kulyak said that he is a licensed Broker in the state of Massachusetts and he brokered this deal, there are no covenants on this land. He said the house he is building will bring up the value of the homes on the street not take away from them, you won't hear or smell the animals and the house will be equal or better to anything on that street.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for the land off Hillside Road at Meadow Lane- Map 38, Parcel 11 to October 4, 2022 at 7:30 p.m.

The motion passed unanimously.

Stormwater Management Permit Application
7:45 p.m 159 Berkshire Ave. (Residential 20 Zone)

Continued Public Hearing

Mr. Goddard said engineer Hale filed for a continuance.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for 159 Berkshire Avenue to October 4, 2022 at 8:00 p.m.

The motion passed unanimously.

Review of Plans Not Subject to Approval under Subdivision Control Law

- 1 Whalley Way & 18 Hudson Drive (Whalley Properties, Inc.)

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to endorse the approval not required plan for 1 Whalley Way & 18 Hudson Drive.

The motion passed unanimously.

- 142 College Highway (W. Engel)

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to endorse the approval not required plan for 142 College Highway.

The motion passed unanimously.

Discussion Items:

- 113 Mort Vining Road- Estate Lot special Permit/Site Plan Approval
Request by owner for a minor site plan change to the approved curb cut location & portion of driveway. Devon Arnold, the applicant, showed a minor change to the driveway he had written on the plans. He said there would be no disturbance to the vegetation; there are just two dead trees. Mr. Doherty said he needed to see something on file to show the new location and would need a revised site plan from the surveying firm he used. He said they would keep that on for discussion and Mr. Goddard could present it.

Routine Business

- Decision 138R Hillside Road-Definitive Subdivision/SP/SPA/Stormwater application

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive the requirement under Chapter 315-12(A) (1) that an original drawing of the definitive plan in black ink on Mylar be submitted with the Definitive Plan application and allow it to be submitted once review has been completed and the plans are in final form for recording.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive the requirement under Chapter 315-12(B) that the Definitive Plan be prepared at a scale of one inch equals 40 feet, and allow it to be prepared at a scale of one inch equals 50 feet.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive the requirement under Chapter 315-12(B)(11) (and Chapter 315-18 by reference) that the Definitive Plan contain a park suitably located for recreation purposes, as the proposed Flexible Residential Development will provide adequate open space with existing walking trails and forested land for passive recreational uses.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive the requirement under Chapter 315-2(G) that sidewalks be constructed on both sides of the street and allow a sidewalk to be constructed on one side as shown on the Definitive Plan. A condition has been added to the decision for the developer to deposit an offsetting amount into the Town of Southwick Sidewalk Revolving Account.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive the requirement under Chapter 185-23(J)(2) that a Homeowners Association agreement of covenant be submitted with the Special Permit and Site Plan Approval application, and the requirement under Chapter 315-12(C)(1) that any covenants and restrictions applying to the development be submitted with the Definitive Plan application, and allow such covenants and restrictions to be submitted for approval by the Planning Board prior to the issuance of a building permit.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger that the Planning Board impose the above conditions listed in section 4 of this written decision upon any approval of the Definitive Plan.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger that the Planning Board approve the Applicant's Definitive Plan, based upon all of the facts and testimony presented at the public hearing held on the application and based upon the conditions of approval to which the Applicant has assented. Endorsement of the conditional approval is conditioned upon: (1) revision of the Definitive Plan to reflect the conditions of approval and the prior or simultaneous recording of this certificate of action with the Hampden County Registry of Deeds; and (2) the provision of a performance guarantee in accordance with the requirements of Section IV (A), *supra*.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger to grant the Special Permit and Site Plan Approval for this Flexible Residential Development with the conditions as set forth in Section VII, above.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger to grant the Stormwater Management Permit for this Flexible Residential Development with the conditions as set forth in Section X, above.

The motion passed unanimously.

- Master Plan Advisory Committee Update. Mr. Phelps said they had over 900 responses to the questionnaire and would be hosting visioning sessions October 13 and 15 for the public to attend.
- Short-Term Rental subcommittee Update. Mr. Utzinger said they had a bump in the road when they took a vote on the bylaw draft they had been working on and the vote came out even as two people had not been sworn in.
- Minutes Approval; May 24, 2022; June 7, 2022 (Regular & Executive Session Minutes); June 28, 2022; July 12, 2022 & August 16, 2022

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to approve the Meeting Minutes of May 24, 2022.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve the Meeting Minutes of June 7, 2022.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve the Meeting Minutes of June 28, 2022.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve the Meeting Minutes of July 12, 2022.

The motion passed unanimously.

A MOTION was made by Mr. Phelps and SECONDED by Mr. Sutton to approve the Meeting Minutes of August 16, 2022.

The motion passed unanimously.

A MOTION was made by Mr. Phelps and SECONDED by Mr. Spina to approve the Executive Session Meeting Minutes of June 7, 2022.

The motion passed by majority with one abstention.

- Upcoming Meeting Schedule. The Board members had no conflict with the proposed dates for the upcoming year.

Being no further business to be brought before the board, a **MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Spina to close the meeting at 10:01 p.m.

The motion passed unanimously.

The Next Scheduled Meeting is October 4th, 2022.

Respectfully submitted,

Meghan Lightcap
Secretary Planning Board

Electronic signatures have been affixed in accordance with M.G.L. c.110G and pursuant to the Board's electronic signature authorization vote of January 4, 2022 as recorded at the Hampden County Registry of Deeds in Book 24401, Page 596.

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| Michael Doherty, Chair | <u>/s/ Michael Doherty</u> |
| Marcus Phelps, Vice Chair | <u>/s/ Marcus Phelps</u> |
| Richard Utzinger | <u>/s/ Richard Utzinger</u> |
| David Sutton | <u>/s/ David Sutton</u> |
| David Spina | <u>/s/ David Spina</u> |
| Jessica Thornton, Associate | <u>/s/ Jessica Thornton</u> |

