



Town of Southwick

Planning Board

MINUTES



Tuesday, March 7, 2023
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: Marcus Phelps, Vice Chair
Richard Utzinger
David Sutton
David Spina
Jessica Thornton, Associate

ABSENT: Michael Doherty, Chair

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

Also attending the meeting were approximately 6 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 7:00 p.m. by Mr. Phelps, the Vice-Chair, in the absence of 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. Mr. Goddard spoke with Mr. John Pagliaro, one of the permittees for the condominium complex at 42 Depot Street regarding future architectural drawing submittals. Mr. Goddard advised Mr. Pagliaro that grading plans depicting substantial changes to the land for drainage purposes should be submitted alongside the building plans for building-permit-level review, assuming that the general drainage patterns at the project are not affected.

PUBLIC COMMENTS: 7:05 p.m. None received.

APPOINTMENTS:

7:06 p.m. 159 Berkshire Avenue (Residential 20 Zone) – Stormwater Management Permit
Continued Public Hearing

Mr. Goddard said he spoke with Mr. Hale, the applicant's representative, yesterday afternoon and told him that they need a set of drawings so that they can review them and wrap up this hearing. He said he is also concerned about any change that may occur in the makeup of the Planning Board members and the loss of an available vote means he may be forced to withdraw his submittal. Mr. Phelps asked if this hearing required a super majority vote and Mr. Goddard said he will seek Town council for that answer.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Sutton to continue the public hearing for 159 Berkshire Avenue to March 28, 2023, at 7:06 p.m.

The motion passed unanimously.

7:20 p.m. 686 College Highway (Industrial Restricted Zone) - Definitive Non-Residential
Subdivision and Stormwater Management Permit Application
Continued Public Hearing

Mr. Goddard said he received a letter from Attorney Matthew Donohue offering an opinion. Mr. Phelps read that letter into record which stated that during the previous Planning Board meeting the Board discussed considering criteria not included in the bylaws regarding subdivision approval namely traffic concerns and the fact that the Town has no requirement for a traffic study analysis. The letter went on to say that it is difficult to get any accurate information from a traffic impact prior to identifying the end user of the proposed subdivided lots. They believe that the issue of traffic is properly addressed in the site plan approval and special permit process when the end user is identified.

Mr. Goddard also received a follow-up response letter from the Department of Public Works Director Randy Brown and read that into the record.

Mr. Phelps said that the Board needs to get a written report from the Board of Health to see what their position is and maybe they could provide some text for a condition that could be included in the decision.

Economic Development Committee Member Michael McMahon inquired about public sewer service and Mr. Phelps said the applicants would need to indicate their intentions with public sewer.

Resident Joanne Leblanc of 38 Reservoir Road said she went on to the applicant's website, Indus Land Development MA, LLC., and read that another company is going to acquire INDUS. She asked if the Board members were aware of this, and Mr. Phelps said if that is the case the application could continue forward but they will have to disclose that information to the Board.

Mr. Goddard read a letter from Alexandra Cichetti, the Permitting Project Manager from R. Levesque Associates, Inc. and the company that designed the plans for this project. The letter stated that they are requesting a continuance for this hearing.

Mr. Phelps asked the Board members what their stance was on forwarding the letter from Attorney Donahue to the Town Counsel for his comment on the traffic study and they felt it would be a good idea. He also suggested they inquire into the acquisition part of the company as well.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Sutton to continue the public hearing for 686 College Highway to March 28, 2023, at 7:20 p.m.

The motion passed unanimously.

7:40 p.m.	Proposed Short-Term Rental Bylaw	<i>Continued Public Hearing</i>
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Mr. Phelps shared the changes he contributed to the current draft of the bylaw. Mrs. Thornton asked about the section Short-Term Rental Registration, item B. She said the Board had made a point to note that the Enforcement Officer may not necessarily be the Building Inspector, going forward, and asked if it is possible that at any point in time the Building Office would not be the recipient of the application. Should it instead be the Zoning Enforcement Officers office? Mr. Phelps said they could strike the Building Office and add the Zoning Enforcement Office instead, in case that changes.

Mrs. Thornton said in item D of that same area they crossed out the application required section that includes an abutters list, and she feels it is important to include that. After the Board members deliberated about this, they turned to the Short-Term Rental Subcommittee members attending the meeting and asked for clarification. Resident Jacqueline Senez of 74 Will Palmer Road and a member of the subcommittee said they spent a lot of time discussing this but couldn't remember the exact reason for the 300' abutter requirement. Mrs. Thornton said they want to make sure they don't shrink the area of the abutter radius too much because then you are taking away potential abutters when you look outside of the lake neighborhood. Town Selectman Doug Moglin also served on the Short-Term Rental Subcommittee and explained that the committee chose a 300' abutter zone because they looked at different areas of town where short-term rentals were likely, and that number seemed to encompass a reasonable distance. Mr. Utzinger asked who would cover the postage fee and mail those out? Department of Public Works Director and Chairman of the Short-Term Rental Subcommittee Randy Brown explained that the Zoning Enforcement Officer is responsible for the abutter's letter and the fee charged for the application would cover the cost to send notices.

Mr. Moglin addressed Mr. Phelps edit on the Judicial Appeals section of the draft and his decision to add in "by filing an appeal with the Select Board within 14 days..." He said that when there is a grievance to a Planning Board decision or dissatisfactions of the Zoning Enforcement Officer that usually goes to the Board of Appeals. The Select Board usually does not hold these types of hearings so he would suggest they use the Zoning Board of Appeals. Mr.

Brown suggested that they not change the timeline for the permits to run from June to July, as Mr. Phelps suggested in his edits, because he is not aware of any other permits in town that run that way, they all go by the calendar year. Mr. Phelps agreed to keep the original dates, but he wanted to use his specific language from the edit.

Michael McMahon said when the state passed the law for these types of rentals, they added a provision that said that if you registered the rental with the state, they would collect an excise tax and a portion of that fee would be sent back to the town quarterly. Mr. Brown reiterated what Mr. McMahon said and when the subcommittee discussed this, they felt it was best to leave it up to the Planning Board to decide on. Mr. Phelps said this would be a separate vote at the town meeting.

Diane Gale of 5 Point Grove Road said that the application doesn't specifically spell out the requirements, but she feels they should register with the state. She also wanted to echo what Mr. McMahon said regarding the excise tax and looking to the future we may grow into something larger with greater numbers of rentals so we should take advantage of that. Ms. Gale said she also agrees with the abutters list for all the reasons Mrs. Thornton stated. She also referenced the "Complaints" section of the document and suggested that they should define specific complaints such as noise and fire pit smoke so that it is clearly defined and clear cut, as those are not specifically violations in town. Mrs. Thornton said it does state that violation of this chapter or any applicable law code or violation and Ms. Gale thanked her for pointing that out.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Sutton to continue the public hearing for the Short-Term Rental Bylaw to March 28, 2023, at 8:00 p.m.

The motion passed unanimously.

Site Plan Review

- 349 North Loomis Street (Residential-40 Zone)-Proposed Small Scale-Ground Mounted Solar Photovoltaic System (Savina Morin at Sunrun Installation Services, on behalf of Michael and Marita Niquette) - Rob Decker from Sunrun Solar attended the meeting on behalf of the client. Mr. Goddard shared a site picture and said this is a Site Plan Review. Mr. Decker explained the plan to install the ground mounted array in the resident's backyard. He said the main issue is the setback and there is no tree removal. After discussing the property and where the solar panels would go Mrs. Thornton said that location looks suitable for the property and it's going to be sufficiently hidden from the nearest residential home. She said the smaller of the two setbacks is next to industrial use so the Board should consider waiving the 150-foot requirement. The other Board members said they are okay with the waiver and Mr. Goddard said he would like to see a more approximate distance. Mr. Phelps said they would need to see a site plan with the actual dimensions and a letter with the number of feet they are requesting for a waiver. Mr. Goddard explained even more details to Mr. Decker

about what they need exactly, and he said he would get that to the Board before the next meeting.

Discussions

- Contemplated change for permitted Large-Scale Solar Photovoltaic Array at Hudson Drive (Tom Saunders, Energy Development Partners, LLC) - Timothy Regan of 14 Kings Daughters Ct, West Greenwich, Rhode Island attended the meeting to represent the project. He said the original design had a fixed foundation facing south that would never move and they decided to switch to a tracking system. A tracking system has a frame that doesn't move but the panels on it will track the sun east to west. Mr. Goddard shared the cell sheet provided showing the new design. Mr. Regan said they will send in an "As Built" drawing once construction is completed. Mr. Phelps asked the Board if they agreed with the new design, and they agreed Mr. Regan could proceed with this request.
- Depot Square Stormwater Bond Reduction Request (R. Levesque Associates, Inc. on behalf of 20 Depot Square, LLC) - Mr. Goddard spoke with R. Levesque Associates, Inc. and they said their intention is to submit materials by next Monday.
- Recommendation to Select Board for Sawgrass Lane Acceptance (Referral from Select Board as anticipated at time of agenda posting) – Mr. Goddard said that the Select Board met the night before this meeting and held a hearing with intention to lay out Sawgrass Lane. He passed out a copy to the Board members and said the matter was referred to the Planning Board for their recommendation. Mr. Goddard said we have an opportunity to reach out to other departments for feedback. He said he had received a letter from the Department of Public Works and read that into the record. The letter stated that the DPW recommends acceptance with a \$70,000 bond posted to be good for one year.

A MOTION was made by Mr. Utzinger and SECONDED by Mr. Sutton to make a positive recommendation to the Select Board to move forward with the acceptance of Sawgrass Lane as a public way.

The motion passed unanimously.

Routine Business

- Master Plan Advisory Committee Update: Mr. Phelps said that Mr. Goddard has been scheduling focus groups and there is a “Housing” focus group scheduled this week and a “Youth Meeting” has been scheduled at the high school next week. They have another focus group coming up on natural resources and open space. The next Master Plan Advisory Committee meeting is March 16, 2023.
- Minutes Approval: February 21, 2023

A MOTION was made by Mr. Utzinger and SECONDED by Mr. Sutton to approve the Meeting Minutes of February 21, 2023, with corrections.

The motion passed unanimously.

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 9:03 p.m.

The motion passed unanimously.

The Next Scheduled Meeting is March 28th, 2023.

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.

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>