



Town of Southwick Planning Board MINUTES



Tuesday, December 7, 2021

7:00 PM (recorded)

Town Hall Land Use Hearing Room with online participation via Zoom

Written Minutes

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

MEMBERS IN ATTENDANCE: Michael Doherty, Chair
Marcus Phelps, Vice Chair
David Sutton
David Spina
Richard Utzinger
Jessica Thornton, Associate
Jon Goddard, Town Planner
Meghan Lightcap, Secretary

ABSENT: NONE

Also attending the meeting were approximately thirteen 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. 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 had discussions with Tilcon and EDP regarding a to-be-submitted Solar Array project off the end of Hudson Drive. Mr. Goddard noted that Town Counsel has indicated that the site may remain as part of the existing Tilcon Earth Excavation Special Permit but Tilcon will need to have a new restoration plan drawn to incorporate the Solar Array.

2. Mr. Goddard spoke with Zuhri Thahir regarding a contemplated COVID-19 testing facility to be constructed as part of the Silk Road Motor Cars facility at 642 College Highway, behind Yellow Bear. Mr. Goddard relayed that the facility would accommodate in-car service and in-office testing, with cars using parking spaces rather than a drive-through for service.
3. Mr. Goddard spoke with Edwin Benton for potential used car sales facility to be added to the existing businesses at 441 College Highway (Total Home Service).
4. Mr. Goddard reported on an inquiry submitted by Paul Gregoire regarding a parcel of land he owns off the end of Lincoln Road. Mr. Gregoire's understanding was that Lincoln Road had at some point been discontinued, but Mr. Goddard's research through DPW revealed that no records exist that show any discontinuance or abandonment of the right-of-way.

PUBLIC COMMENTS: 7:05 p.m.

Bob Stevens of 33 Tannery Road addressed the Planning Board and relayed his experience before them in 2018 regarding the provision of an open space separation to abutters at the Greens of Southwick – East subdivision. Mr. Stevens indicated that the Planning Board Chair told him to contact the developer; accordingly, he met with the developer and R Levesque Associates to develop a solution to his concerns – a solution that incorporated fencing and landscaping between the Stevens property and several lots in the subdivision and was subsequently made part of the definitive subdivision plans approved by the Board. Mr. Stevens noted that we are now entering 2022 and feels that the arrangement he sought was not being honored. Mr. Stevens is asking the Planning Board enforce the agreement. Mr. Doherty recalled his opinion that it might be better to have an abutting resident work out a compromise with the developer rather than in the midst of a hearing. Mr. Doherty also noted that the subdivision has not been accepted and that the Board can't enforce but it also will not be accepted until all work shown on the approved plans has been completed. Mr. Stevens said previous Town Planner, Alan Slessler told him the Board has the authority to enforce. Mr. Goddard, Town Planner, said he will review the project file and the written decision for any accommodations to that effect. Rob Levesque, the developer's consultant at the time of application, was in attendance and shared that he remembers the matter and would be happy to communicate with the developer. Mr. Levesque asked if any adjacent houses have been constructed and Mr. Stevens indicated that one has been built. Mr. Levesque asked if Mr. Stevens has talked with the developer, Mr. Fiore, and he said Mr. Fiore would not take his calls but he was directed to his son Jason as he had retired. Mr. Doherty said he would contact Jason and let Mr. Levesque know what was said.

APPOINTMENTS:

7:10 p.m.	664 College Highway	Application for a Special Permit & Site Plan Approval <i>Public Hearing</i>
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The applicant, Joseph Walz, was in attendance to represent his application and stated that he has a dental practice in Agawam and is planning to expand his practice into Southwick. He is

petitioning to change the use at the site from a bank to a professional [dental] office. Mr. Doherty read the Public Notice advertised for the hearing. Mr. Walz shared the original site plans for the bank and explained that there are no planned changes to the exterior of the property. He said that his practice needs 19 parking spots but there are currently 29, so the existing site will be more than adequate in that regard. Mr. Goddard asked if his office would require any changes to the septic system for medical accommodations; Mr. Walz, acknowledging that he was not an engineer, noted that the new technology that will be used in the office so very little water will be used and he anticipated no issues with the system. The new office will have 4 employees and they will use 53 gallons a day with about 16 patients per day. Mr. Goddard said there is adequate parking and setbacks. Mr. Doherty read an email from the Building Inspector, Kyle Scott and he had no concerns and from Paul Miles of the Police Department who had no concerns, as did DPW and the Fire Department. Mr. Phelps asked where the septic was located and Mr. Walz showed him the location on the plans. Mr. Phelps said when they write the conditions they need to include the Board of Health approval. The Board decided to close the hearing and vote on the decision at the next meeting.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to close the public hearing for 664 College Highway Special Permit and Site Plan Approval.

The motion passed unanimously.

7:20 p.m.	Joint Public Hearing with Planning Board and Tree Warden	
	Public Shade Tree Removals at Kline & Fred Jackson Roads	<i>Public Hearing</i>

Mr. Utzinger recused himself as an abutter and Mr. Doherty designated Mrs. Thornton as a voting member. Mr. Doherty then read the Notice of Public proposing to remove four 18" diameter public shade trees on Kline Road and one 30" diameter public shade tree on Fred Jackson Road. Mr. Brown, the Town Tree Warden, said that tree removal on a scenic road requires a public hearing. He went on to describe that they are removing four trees at 81 and 72 Kline Road because they are replacing a culvert. The trees are 5-8 feet off the road and within the right-of-way. Mr. Brown said the tree on Fred Jackson has split and is within 5 feet of the road and a safety concern. Mr. Phelps said he drove up the road and saw roughly 25 trees marked with orange spots and asked if those were being removed. Mr. Brown said they are doing a wetlands survey and they may be marked for that. Mr. Phelps suggested planting a tree for every one the Town removes and Mr. Brown said that was reasonable but not required currently. Maryssa Cook-Obregon asked where the requirement would come from to get trees planted when others are removed and Mr. Brown said he didn't know, maybe the public. Mr. Doherty said it was a good idea but as it was near the right-of-way there should be permission from property owners as they may not want trees re-planted. Mr. Brown said he spoke with the property owners on Fred Jackson and they were in favor of removing the tree.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to close the public hearing for public shade tree removals at Kline Road.

The motion passed unanimously.

A **MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Spina to close the public hearing for public shade tree removal at Fred Jackson Road.

The motion passed unanimously.

7:25 p.m.	159 Berkshire Road	Stormwater Management Permit Application
		<i>Continued Public Hearing</i>

Derek Hale shared his plans on screen as he is representative for the applicant. Mr. Hale said he is currently working with DPW and Mr. Goddard on finalizing these plans. Mr. Goddard said he got the plans and recommended Mr. Hale locate drawings of the neighboring Rail Trail Ale House and Edgewood Golf course, then address the drainage issues beneath the property so there is no on-going erosion. He recommended they keep an open dialogue to move the process along as it needs more work. Mr. Doherty asked to continue the hearing.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to continue the public hearing for 159 Berkshire Road Stormwater Management Permit to Tuesday December 21, 2021 at 7:10 p.m.

The motion passed unanimously.

7:45 p.m.	42 Depot Street	Special Permit, Site Plan Approval, Earth Excavation
		Special Permit, Wellhead Protection District Special Permit,
		and Stormwater Management Permit Application
		<i>Continued Public Hearing</i>

Mr. Phelps recused himself as he is an abutter to the property. Mr. Doherty said this project was on the agenda of the Conservation Commission and was approved with changes made. Mr. Levesque shared his screen and showed the changes made to units and driveways near the wetland area. Mr. Doherty read the comments by the DPW who had nothing further to add. He then read comments sent to the Planning Board via email from Dottie Bujnevicie of 20 Rails End Road; she had concerns on wetland health and traffic. Guy Barbieri of Depot Square asked what the condition would be to approve the project with condominiums versus rental apartments, and Mr. Levesque responded by first saying that Conservation had approved this revised layout pushing units away from the wetland buffer zone. He then reminded the Board that zoning doesn't dictate ownership. Mr. Doherty said the project, as presented to the board, was stated to be a condo complex not apartments. Mr. Levesque said they are considered multi-family units not condos. Mr. Spina asked if they had extended the sidewalk from unit 79-80 and Mr. Levesque said they hadn't talked about it after the last meeting but that the suggestion was feasible and could be added as a condition. Mr. Utzinger asked about the mailbox location and

Mr. Levesque showed it on the plans. Ms. Cook-Obregon said she asked a question of the Conservation Commission and was directed to the Planning Board, wanting to know what sort of mechanism there was to make sure nothing happens to the wetland. She asked the Board if they had any discussion on being proactive in monitoring the health of those wetlands. Mr. Doherty said Conservation keeps tabs on wetlands. Mr. Levesque explained that the wetlands were protected by the Order of Conditions for 3 years during construction; thereafter, the Homeowners Association was responsible for the grounds and it was not the responsibility of the Planning Board to enforce this. Rich Youmans of 5 Iron Horse Hill asked about multi-function use on the property and Mrs. Thornton said it was multi-family not multi-function. Mr. Levesque said anything built over 2 units is considered multi-family and this zoning district doesn't allow a duplex. He said this project has 2 styles - a townhouse and ranch style – and was not age-restricted. Mr. Barbieri asked if they were going to be condos or apartments and Mr. Doherty said they need to run the language by Town Counsel but the Homeowners Association is responsible for the common areas but as far as renting them there is no limitation.

A **MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Spina to close the public hearing for 42 Depot Street Special Permit, Site Plan Approval, Earth Excavation Special Permit, Wellhead Protection District Special Permit and Stormwater Management Permit.

The motion passed unanimously.

8:00 p.m. Wireless Communications Services District- Bylaw Revisions

Cont. Public Hearing

Mr. Doherty asked the Board if they were interested in using the Consultant Mr. Goddard had found and they discussed his qualifications. The Board decided the next plan of action was to look into funding and a timeframe. Andy Felix of 280 South Longyard asked if they would consider adding Fire and Police wireless communications to the bylaw as well. Gary Liquori of 266 South Longyard asked about conveying privately owned property to this also and Mr. Doherty said that was a question for the Select Board as it was out of Planning Board jurisdiction.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to continue the public hearing for the Wireless Communications Services District bylaw revisions to Tuesday, December 21, 2021 at 7:20 p.m.

The motion passed unanimously.

Routine Business

- Decision: 125 Sheep Pasture Road Estate Lot Special Permit, Site Plan Approval, and Stormwater Management Permit

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to grant the Estate Lot Permit and Site Plan Approval for 125 Sheep Pasture Road, subject to the changes made to the written decision.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Sutton to grant the Stormwater Management Permit for 125 Sheep Pasture Road, subject to the changes made to the written decision.

The motion passed unanimously.

- Informal Discussion: Kenneth Eggleston, 141 Congamond Road – Approach to Off-Street Parking

Mr. Eggleston and Dante Boffi shared plans with the Board for the property formerly known as Crabby Joes. The plans showed physical on-site parking and transient parking spaces for boats. There are two types of slips for boat parking, 18 transient for restaurant, others are for marina and would be regulated under Chapter 91. Based on 40% of the restaurant's max. occupancy, parking spaces would be allocated at 43 spaces for the restaurant with 18 transient boat slips. Mr. Phelps asked if any of the parking spots are in the right-of-way and Mr. Goddard said a portion of them are. Mr. Eggleston said a previous gentleman considered purchasing the property in 2019 and was approved for these additions and thought it would be unfair for them not to be considered. Mr. Brown said he did not recall that approval but felt it best to stay away from the right-of-way; it was best for the Town to reserve its rights to use it if needed. Mr. Levesque noted that it may be best for the Town to allow the parking use to continue in that location and have the site plan and special permit be subject to changes were the Town at some future point need to occupy that land. There was more discussion on the number of spots needed for staff, restaurant patrons and marina parking and it was decided to continue talking about this at the next meeting, informally, for the sake of time on December 21, 2021 at 7:30 p.m.

- Informal Discussion: Faded Flowers MA - Contemplated Marijuana Cultivation Facility

Sharif Osman is the Co-Founder and Kevin Koszarek is the Business Manager of Faded Flowers MA. Their aim is to open a marijuana cultivation facility at 771 College Highway on 3.5 acres with a 3,000 square-foot greenhouse. It would be a small grow facility with in-ground greenhouses. Mr. Doherty told them this property is not within the marijuana overlay district. Attorney Chris Ray said they are looking to apply for a change of use in zoning and Mr. Doherty told him they needed to submit a request to change the overlay map to include the property to the Select Board and that would then go before Town meeting in May. If successful, they could come before Planning again.

- Noble Steed Crossing: Request to release Lot 16 from Covenant in lieu of Bond

Jesse Saltmarsh, the developer, came before the Board and Mr. Doherty asked him if he had resolved the issues DPW had brought up about the development. Mr. Saltmarsh said no he had not discussed this with them. Mr. Saltmarsh said he cannot start to build on this property until this is resolved and that he had met all of the requirements. Mr. Saltmarsh asked why this can't be released. He said the funds held in the covenant outweigh the remaining work. Mr. Doherty brought up concerns voiced by Town officials with a contemplated cul-de-sac to replace a stream crossing and the siltation of wetland areas. Mr. Saltmarsh said he has excavated silt several times for the Conservation Commission and they keep asking for more, but when will they stop asking. He feels that these issues have nothing to do with the Planning Board releasing the lot. Mr. Brown, the DPW Director, said he contacted Mr. Saltmarsh a month ago on several issues and got no response but he was happy to hear that he was making the necessary changes. Erica Rossini, the lot owner, told the Planning Board that she was very upset to hear about this issue and was a single mother, living with her parents, waiting for this house to be built. Mr. Spina suggested that Mr. Saltmarsh substitute another unsold lot in place of this one as an alternative solution.

- Discussion: Draft Citizen Petition for Major Development Moratorium

Mr. Doherty shared the changes Diane Gale had submitted to the Board and there was discussion on these items. Mr. Spina said that the addition of impervious surface needs some maximum size added.

Being no further business to be brought before the board, a **MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Phelps to close the meeting at 10:41 p.m.

The motion passed unanimously.

The Next Scheduled Meeting is December 21st, 2021.

Respectfully submitted,

Meghan Lightcap
Secretary Planning Board

Michael Doherty, Chair

Marcus Phelps, Vice Chair

Richard Utzinger

David Sutton

David Spina

Jessica Thornton, Associate