



# *Town of Southwick* **Planning Board** MINUTES



**Tuesday, May 24, 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](http://www.southwickma.org))*

## **MEMBERS IN ATTENDANCE:**

Marcus Phelps, Vice Chair  
Richard Utzinger  
David Spina  
Jessica Thornton, Associate  
Jon Goddard, Town Planner  
Meghan Lightcap, Secretary

## **ABSENT:**

Michael Doherty, Chair  
David Sutton

Also attending the meeting were approximately 42 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 Vice-Chair Mr. Phelps. He stated that the meeting was being recorded and asked if anyone else was recording the meeting.

## **PLANNER’S REPORT: 7:00 p.m.**

1. Mr. Goddard received a call regarding the feasibility of accessing 79 Mort Vining Road for single-family home construction via a common driveway as shown on Conservation and easement plans. Mr. Goddard observed that this parcel would make the third property utilizing the common driveway and would be prohibited under the

- current bylaws and referenced two opinion letters penned by Town Counsel that note the prohibition under zoning for common driveways prior to the passing of the 2015 bylaw permitting such driveways. Mr. Goddard observed the absence of any acknowledgement under zoning for the permissibility of the common driveway and reported his findings to the inquiring party.
2. Mr. Goddard reported that he has submitted a grant application for the Master Plan implementation phase, plus several elective options, in the amount of \$50,000.
  3. Mr. Goddard reported that the bylaws proposed by the Planning Board passed at the Annual Town Meeting and are effective on the date of the vote, subject to Attorney General review.
  4. Mr. Goddard spoke with Bill Crawford of 18 Klaus Anderson Road regarding the potential use of his residential/agricultural property in the R-40 zone for the sale of bee products and beekeeping supplies. Mr. Goddard indicated that the use would only be allowed if it fit the definition of a Farm Stand, which requires a certain percentage of the products for sale to be agriculturally derived and grown on the subject premises.

#### **PUBLIC COMMENTS: 7:05 p.m.**

*No public comments were made.*

#### **APPOINTMENTS:**

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7:10 p.m. 159 Berkshire Ave. (Residential 20 Zone)  
*Stormwater Management Permit Application*

*Continued Public Hearing*

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Mr. Goddard and Mr. Brown, DPW Director, are meeting to discuss the information presented by the applicant's representative, Derek Hale, so they can provide feedback to him. Mr. Goddard said they will need to continue the hearing to the next meeting in June.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to continue the public hearing for 159 Berkshire Ave. to June 7, 2022 at 7:45 p.m.

The motion passed unanimously.

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7:15 p.m. 138R Hillside Rd. (Residential 40 Zone)  
*Definitive Subdivision, Special Permit, Site Plan Approval & Stormwater Management Permit Application*

*Continued Public Hearing*

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Filipe Cravo of R. Levesque Associates, Inc. attended the meeting on behalf of the applicant. Mr. Cravo showed the plans for the project and told the Board that they had not been changed since the last meeting. He explained that his firm is working to address the comments from Town officials at the last meeting. Mr. Cravo shared that Chris Karney was the previous project manager working on this but he had since left. He noted that the developer did not want to provide additional fill to the rear lots as had been previously asked by the Planning Board. Mr. Utzinger asked about sidewalk location as it only goes halfway up and Mr. Cravo said it was only added to provide access on one side of the road. Mr. Phelps said he feels they don't need to add them because of the location in general. Mrs. Thornton said she objected to that because any children living in this development will be picked up on Hillside Rd. not at their homes so a sidewalk would be beneficial for them to get to the main road. Mr. Phelps said they should either shorten the sidewalk to the end of cul-de-sac or make them go all the way around. Mr. Phelps also asked them to double up the plantings in the buffer zone with Spruces rather than White Pine. Abutter Melissa Wojcik of 138 Hillside Rd. asked if there were changes to the sidewalks from the first set of plans and Mr. Phelps told her there had not been any changes; this is what they saw at the last meeting. The sidewalk was on the south side and went one third of the way around the street. Kevin Meder of 10 Dairy Lane lives in the area and is concerned that the development is being constructed over a water table and he also has traffic concerns and he would like to see the plans so Mr. Goddard said he could contact him and he could share the plans with him. Mr. Cravo said they need more time to work on new details and Mr. Phelps said that they would continue the hearing to the next meeting.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to continue the public hearing for 138R Hillside Rd. to June 7, 2022 at 8:00 p.m.

The motion passed unanimously.

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7:25 p.m. Sunnyside Ranch Estates (Residential 40 Zone)

*Potential imposition of new security under M.G.L. Chapter 81, Section 41U*

*Public Hearing*

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Mr. Phelps read the Notice of Public Hearing and Mr. Goddard said he has 3 letters submitted by Town Counsel reaching out to the developers of this project. He also has 2 response letters from the developers as well as a letter from DPW Director Randy Brown detailing his review of the estimated work and cost list. Mr. Phelps read the first letter from Attorney Thomas Kenefick dated 5/23/22 addressed to Town counsel, Mark Tanner. Mr. Kenefick represents Pinnacle Estates at the Ranch LLC, and Peter Pappas, the developer, the letter stated that his client has no interest in the imposition of new security of Sunnyside Ranch Estates. Pinnacle Estates is no longer an active legal entity and Mr. Pappas has no interest in participating further in these activities. Mr. Kenefick also referenced an attached memo prepared by Mr. Sullivan, the President of Sunnyside Randy Estates Property Owners Association. Mr. Goddard noted that the memorandum was not attached or provided to Town Counsel. Mr. Goddard then read a letter from Attorney Michael D. Roundy on behalf of Sunnyside Ranch Estates, LLC, addressed to the Planning Board for the record to consider a new imposition of new security under M.G.L.

Chapter 41, Section 81U. The letter stated the imposition is unwarranted and lacks any legal basis. Mr. Goddard read correspondence from the DPW Director, Mr. Randy Brown, which estimated the work required to repair and complete infrastructure improvements at roughly \$560,000.00, not including paperwork. Mr. Spina asked if these roads were all built before the transfer or after from Sunnyside to Pinnacle Estates and Mr. Goddard said a portion was built after the transfer. Ms. Cahill (no first name given) of 7 Pond View Lane asked why the town is involved in this and Mr. Phelps explained that the Planning Board is considering re-imposing a legal security requirement on the developers or their entities for unfinished work. Ms. Cahill said she didn't understand this still and why the Town was involved and Mr. Phelps again explained the purpose of the hearing. Jim Sullivan of 16 Gable View Lane is the President of Sunnyside Ranch Homeowners Association and said based on the DPW report somebody doesn't know how to build roads and it also looks like somebody doesn't know how to inspect the roads. He said clearly these roads are incomplete and the Town even told us that and the developer admitted they are not complete and won't pay for it, so now after 9 years we are going to have to put our trust in the Town of Southwick. Mr. Phelps asked Mr. Sullivan if he is referred to in these attorney letters and he said yes. Mrs. Thornton asked Mr. Sullivan what he suggests the Planning Board do and Mr. Sullivan said you tell me what you can do, we want the roads completed. Bruce Tomaso of 6 Pond View Lane said the issue is that one developer said they would finish the roads and the Planning Board released the lots from the covenant and the roads were never completed. He said now we find that there were major errors made and we need resolution and justification to resolve this. Mark Fulco of 14 Ranch Club Road thanked the Planning Board members for their dedication to the Town. He said what we are asking for is indemnification for the Homeowners Association. Mr. Fulco said he is looking for reassurance that the Town is not seeking security from the residents for this to be resolved and would like it to be documented. Mr. Phelps said we are still involved with Town Counsel helping us to resolve this and will continue the hearing to the next meeting.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to continue the public hearing for Sunnyside Ranch Estates to June 7, 2022 at 8:15 p.m.

The motion passed unanimously.

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7:15 p.m. 141 Congamond Rd. (Residential 20 & Business Zone)

*Application for a Wellhead Protection District Special Permit in conjunction with a Request to Modify Site Plan Approval & Amend Special Permit Decision*

*Public Hearing*

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Mr. Phelps read the Notice of Public Hearing into record for the hearing. Mr. Goddard said that he posted this notice with an error; with the month of March in the heading but not in the body so he corrected the error. He spoke with Town Counsel and they determined it was not a critical issue. Felipe Cravo of R. Levesque was present representing Ken Eggleston the applicant and he explained the plans were a modification to an approved plan and they were also seeking a wellhead permit. The first modification was at the Beach Street two way entrance, there is a utility pole there that can't be moved so they want to make it a One Way exit. They also want to

remove the sign at the front of the property and this in combination with changing the Beach St. access point will give them 2 additional parking spaces bringing the total up to 62. The applicant also wants to add 2 ADA (Americans with Disabilities Act) ramps for the boat docks. Lastly, they want to replace the planter along Beach Rd. with a 3 foot high stockade fence to provide light protection to neighbors and a 4 foot high fence along the property to the south. Additionally, they require Wellhead Protection on the property. The applicant Ken Eggleston spoke and said that the DPW Director told him he liked the idea of the entrance/exit being changed to an exit because the road is one way. Mr. Eggleston also said that the very first southern parking space needs to be eliminated because you can't back out of it so adding the other spaces helps alleviate this problem. He said changing the dock layout for ADA accessibility also helps the neighbor as the docks need to be 50 feet away from her dock. He said the northern dock was always transient but now it's opposite and he would like to switch that because most of the traffic would be on the other end of the restaurant. He said the docks are well off of the culvert. Mr. Eggleston said there used to be a cement planter and what the plans call for is not that way. A neighbor told him she prefers a stockade fence over a planter. Mr. Utzinger asked how removing the in/out egress gets two more spots and Mr. Cravo said additional striping moved everything over. Mr. Phelps designated Mrs. Thornton as a voting member. Mr. Goddard said there were no comments from the Safety Officer for the Police Department and read Mr. Browns comments from DPW which said the fence should run all the way down the property and Mr. Eggleston said that is not possible as its Town property and he would need permission. Mr. Phelps said they needed to discuss this further as DPW also has a problem. Mr. Goddard read a letter dated 5/6/22 from the Lake Management Committee that detailed concerns over traffic spaces, headlight pollution, fencing, Beach St. egress, trucks entering the lot, winter storage of the docks, transient slips, parking spaces for entertainers and boat congestion. Mr. Phelps said they should clarify if a fence would be allowed with the Select Board. Michelle Pratt, member of Citizens Restoring Congamond said she would mark off areas for the docks and get a drone to show better views. Mr. Goddard made reference, as the Town Planner, that in the Planning Board decision the southerly dock was in reference to leased docks. Mr. Grannells said it should show 150 feet from the end of the docks is a no-wake zone. Mr. Phelps said we have to consider if that is under Planning Board authority as they didn't address that on the last decision. Mr. Grannells also added that they should consider spacing in the parking lot as it pertains to delivery trucks. Michelle Pratt of 152 Berkshire Rd. President of the Citizens Restoring Congamond said they would like to do a demonstration run to show what it would be like to navigate through the 50-foot docks sticking out at the site. She said they are excited about the restaurant and feels transient docks are fine but doesn't want a marina there as it's already overcrowded on the lake. She also said they would like to see a 75 foot transient dock. Kevin Maloney who lives on the West Suffield side and is not a resident, asked Mr. Cravo how wide the entrances to the parking lots are and Mr. Cravo said about 24 feet wide, line to line. Mr. Maloney then said you can get a delivery truck in there but you will never get a tractor trailer truck to turn in that parking lot. He said he is in the transportation business and asked if it will be paved and Mr. Eggleston said yes, the entrance is paved but the rest will be compacted hard surface. Mr. Maloney asked how you can maintain the lines if it's not hard asphalt? Mr. Phelps asked for measurements of the entryway and Mr. Cravo said 30 feet, Mr. Maloney said that is wide enough for a trailer to get in but how do you get it out. Edward Nitsche of 3 Beach Rd. lives where the new exit will be and said that this change will put headlights directly at his

house. He said he has had no input on this decision and Mr. Phelps said yes, we have had input at the first hearing and at this one. Ms. Thornton asked if the exit has moved since the last hearing to where it's now shining on the residents' house and Mr. Eggelston said it didn't move just got smaller. Mr. Phelps said we hear your concern and we will look at it closely. Mike Orszulak of 36 Grove St. said he is concerned with the marina and overcrowding. Mr. Grannells said there is a 15 foot setback for parking that requires action for the Zoning Board of Appeals variance and Mr. Phelps said that had already been looked at and it is pre-existing, non-conforming use. Mr. Grannells said yes but the site has been closed for four years and Mr. Phelps said the Planning Board approved the special permit to allow the use of the land. Diane Gale of 5 Point Grove Rd. said it seems the issue is with boats overcrowding the lake not with the Planning Board and perhaps that's the issue to consider. Mr. Phelps said we don't have the authority on the water and that's a great consideration to consider. Mr. Grannells said the Department of Environmental Protection manages the Chapter 91 license but it goes to the Select Board and the Town for comment and review. Eric Mueller, Vice-Chair of the Lake Management Committee, said on the comment of what's the difference of adding 20 boats when there are already so many is the problem that you just have infinite boats and if this marina goes forward what's to stop another marina from being opened the next time. He said by what basis will you reject the next one if you're going to allow this one? Mr. Phelps said thank you for your comment and Mr. Mueller asked if the Board responds to comments? Mr. Phelps said the Board is taking in the information and will discuss it when we make our decision. Mr. Mueller said, "But will you respond to the comment or does that mean you will discuss it, and we will have no idea as members of the public whether our concerns were addressed at all?." Mr. Phelps told him this is all done in public sessions so any response and discussion will be made during the meetings. Mr. Mueller, again, said will there be a time when you respond to the comment? Mr. Spina said there is already a special permit in place for this marina that was approved a couple of months ago; we are just talking about whether the fences are going to change and about a couple parking spots, a modification. Mr. Spina said we added a re-opener to the special permit to look back at this in another year and see if this is working out. He said a lot of the concerns being talked about have already been addressed at prior meetings and we have measures in place to address this again. Mr. Phelps said anyone can look at the record to see what we did. Mr. Maloney said, with all due respect, this is the second time I've heard this Board say well the lake is not our problem, how can you in good conscience ignore the safety of our fellow citizens on the lake, I don't understand, it has to be part of this conversation. Mr. Phelps said it was considered and Mr. Maloney said you ignored the recommendation of the Lake Management Committee, the one committee that knows what goes on at the lake. Mrs. Thornton said if you were at the prior meetings, you would know that every member of this board not only listened to every public comment, we also listened to public comments by Town officials on the Lake Management Committee and she resents the implication that herself or other board members did not take those comments or concerns into consideration when issuing our initial judgment. The Planning Board issued a special permit already for the continued use of a restaurant at this location and allowed a modification to it by allowing part of the marina that Mr. Eggelston first requested. So, we did take those concerns into account and we very much so adjusted our decision to not only accept that in the number of docks accepted initially, but also by including look backs so that we can make sure that going forward if the marina did cause problems that do fall under our Land Use/ Planning Board umbrella we would be able to adjust that. So, I hope that this addresses your

concerns and that Mr. Mueller understands that we took those comments prior to issuing the initial decision and we are hearing them again tonight going forward and if we decide to modify the special permit that's been proposed. Mr. Phelps made the decision to continue the hearing to June 7, 2022.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to continue the public hearing for 141 Congamond Rd. to June 7, 2022 at 8:30 p.m.

The motion passed unanimously.

#### Review of Plans Not subject to Approval under Subdivision Control Law

30 Laro Rd. (Map23, Parcel 4- East side of Laro Road)

Mr. Goddard showed the plans to the Board and said that its partner plan for Westfield acreage at the subject property had already been endorsed by the Westfield Planning Board.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to endorse the plan as not requiring approval for 30 Laro Rd.

The motion passed unanimously.

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#### Informal Discussion

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- The Greens of Southwick-West Subdivision
  - Request to release remaining lots (Lots 15 & 18) from Covenant in lieu of Bond; Establishment of Performance Bond.
  - Request to initiate street acceptance process.

Mr. Goddard said that Mr. Brown had updated his punch list and a few remaining items greater than \$5,000. Jason Fiore, the Developer, was online via Zoom and said he wants to meet to get a number to move forward at the next meeting. Doug Moglin, Town Selectman, said Chapter 315, Section 30, delineates the process for inspection and release. He said it's in the Town's best interest to get these roads on the Town Meeting Warrant. Mr. Goddard read some language from Mass General Law and will provide a response letter at an appropriate time.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to give authority to Mr. Goddard to send a response to Mr. Fiore to his request as outlined by the Town Planner.

The motion passed unanimously.

- The Greens of Southwick- East Subdivision

- Request to release lots 11, 15, 18 & 20 from Covenant in lieu of Bond. Mr. Goddard said this request has been reviewed by the Town Counsel and the DPW director. If the letter is approved it keeps 6 lots in the Covenant.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to release lots 11, 15, 18 & 20 from the Covenant in lieu of Bond from the Greens of Southwick East.

The motion passed unanimously.

- 42 Depot Street Residential Development
  - Discussion of change to sidewalk alignment noted as a condition in the Planning Board decision.

Mr. Phelps recused himself as he is an abutter. There was discussion about making an internal sidewalk as the office of R. Levesque and Associates identified an issue with the sidewalk. Mrs. Thornton said if they add another one it should be fine.

- 157 Feeding Hills Rd. Crepes Tea House
  - Discussion regarding potential expansion of services and recent site improvements.

Arturo Surbinkas owner of Crepes Tea House, attended the meeting and said the buildings being built on his property should be done by July. He said they went before the Conservation Commission and got permission to proceed with the construction. The buildings will be used during catering events as when they do an event people want to sit on the back deck but they can't because it's closed. Mrs. Thornton asked how many people fit inside these structures and Mr. Surbinkas said the two small ones are 16 x 20 and the larger one is 24 x 20 and holds about 25 people. He said it is more like alternative seating outside and they will be adding fire pits and mini splits for heat and air conditioning. Mrs. Thornton said if the Fire Chief approves. On a question about extending the alcohol license, Mr. Phelps said the Select Board handles that. Mr. Phelps said this is an accessory use and Mr. Goddard agreed and it changes parking. Mr. Spina said they need a site plan and to check the parking. Mr. Surbinkas said he spoke with DPW and they will allow him to pave but he is waiting for trenching for power to the new buildings to be finished. Mr. Phelps said the Planning Board need to add this to the next meeting under Routine Business.

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#### Routine Business

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- Noble Steed Crossing: Release of Lots from Covenant; New Performance Bond posted. Mr. Goddard said the bond was approved by Town counsel and also approved by the Town Clerk and just needs to be signed by Mr. Doherty, the Planning Board Chair.





- Community Preservation Committee Representative.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Phelps to reappoint Mr. Spina as the Planning Board representative to the Community Preservation Committee.

The motion passed unanimously.

- Master Plan Advisory Committee update. Mr. Phelps said Mr. Goddard applied for grant funds from the Executive Office of Environmental Affairs. The committee was close to finishing the survey and Ms. Cook-Obregon did the brochure and they would be passing it out soon.
- Short-Term Rental Subcommittee. Mr. Utzinger said they met and finalized a questionnaire and it was on the Town website. They will be meeting on June 21.
- Minutes Approval

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to approve the Meeting Minutes of February 1, 2021 with minor edits.

The motion passed unanimously.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Phelps to approve the Meeting Minutes of February 10, 2021.

The motion passed unanimously.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Spina to approve the Meeting Minutes of February 15, 2021 with minor edits.

The motion passed unanimously

Being no further business to be brought before the board, a **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger to close the meeting at 10:07 p.m.

The motion passed unanimously.

*The Next Scheduled Meeting is June 7th, 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.*

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>