

Approved: December 13, 2021

MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE TOWN OF LANCASTER
Meeting conducted via ZOOM internet conferencing
Monday November 8th, 2021

Present: Russell Williston, Chair; Roy Mirabito, Vice Chair; Carol Jackson, Clerk; Tom Christopher;
Peter Christoph

Absent: None

Staff Present: Debra Dennis, Administrative Assistant

List of Documents:

- Written request for continuance of Stormwater Permit application to November 22nd, 2021 from Five SAC Self Storage Corporation.
- Memo from the Lancaster Affordable Housing Trust received between meetings, responding to Planning Board's comments on the proposed "Approval Authority" for their draft 40R bylaw.
- Latest draft of the IPOD bylaw amendments proposed by the chair, integrating changes from the previous meeting.
- Additional IPOD bylaw amendments drafted by member Carol Jackson.
- Proposed memo drafted by the chair asking boards with zoning bylaw amendments for the February 15th special town meeting to submit them to the planning board no later than December 27th for a public hearing.
- Email correspondence between Perkins School and James Broderick, discussing drainage issues affecting his abutting property.
- Email from resident Cara Sanford, 10/17/2021, describing stormwater concerns at Orchard Hill Athletic.
- Memo from the Lancaster Historical Society about their site visit at the DCAM property.
- Request for Comments from the Lancaster Select Board for two National Grid Pole Hearings on Old Union Turnpike and Fort Pond Road.

Chair Russell Williston called the meeting to order at 7:08 PM.

Administrative:

1. Roll Call for Attendance:

Roy Mirabito: Present
Carol Jackson: Present
Tom Christopher: Present
Peter Christoph: Present
Russell Williston: Present

Public Hearing

2. Five SAC Self-Storage Corporation (U-Haul), applicant, seeks approval for a Stormwater Permit under the requirements of the Town of Lancaster Stormwater Control Bylaw Section 170-5, and Stormwater Management Rules and Regulation Section 305-5. The site is located 90 Duvall Road, (Map 3, Lot 2) and within the Enterprise Zone district and within the Integrated Planning Overlay District (IPOD). The regulated activity under the stormwater control bylaw is the disturbance of land greater than 1 acre. The applicant is conducting site improvements for a commercial use in association with a change in ownership of the land. (Continued from 10/25/2021)

The applicant submitted a written request for a continuance to November 22nd, 2021.

Carol Jackson: motion to continue the public hearing to November 22nd, 2021. Second by Roy Mirabito. No discussion. Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

Public Meeting

3. ANR-1930 Shirley Road

Chair introduced this item; the ANR was received late last week and the agenda was amended to include it.

Chair asked if anyone was present to talk about the ANR: no one was present, and it's not required. No abutters or neighbors were present.

Tom Christopher would prefer that the applicant appear to answer questions about the ANR. Carol Jackson concurred.

Carol Jackson would like to hold the ANR for consideration at the next meeting. The chair confirmed that the board will still have time to act.

Carol Jackson: motion to hold this ANR until the next meeting. Second by Tom Christopher. No discussion. Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

4. 40R Bylaw: Review any material received regarding the proposed 40R bylaw and district under development by the Affordable Housing Trust: review any feedback from the Trust received by meeting time or hear from Trust members about the bylaw if they desire.

Chair introduced this item. Between meetings the board received a memo from the Lancaster Affordable Housing Trust responding to the Planning Board's comments on the proposed "Approval Authority" for their draft 40R bylaw.

Roy Mirabito asked if the Affordable Housing Trust was designated by the Board of Selectmen to be the "Authorizing Agency." The chair recognized Victoria Petracca, chair of the Affordable Housing Trust, to make comments. Victoria Petracca: town is able to designate plan approval authority, must be an entity of local government. Roy pressed if the AHT was to be authorized by the Select Board to be the "Authorizing Agency", Victoria restated comments about Authorizing Agency.

Tom Christopher: Planning Board should be Approval Authority.

Carol Jackson: mass.gov lists towns with 40R bylaws – of the nine example, eight have the Planning Board as approval authority. The other uses their city council.

Russ Williston concurred with Carol: could not find an example of a hybrid approval authority, asked Victoria Petracca for an example. Victoria Petracca: one-third of municipalities with 40R bylaws use a board other than the Planning Board as the Plan Approval Authority. Dartmouth uses a composite board. Russ Williston: in the examples he could find with non-Planning Board approval authorities, like Wellesley, the approval authority was whatever board did Site Plan approval.

Russ Williston made comments on the memo: he reviewed the Affordable Housing Trusts memo and the points made in it. The assertions about the discussions held about the plan approval authority did not reflect the actual discussions held by the AHT on the townhallstreams.com recordings. On July 15th at 1 hour 41 minutes into the meeting they discussed the approval authority for about 20 minutes. On August 15 at 1:29 minutes into the meeting, the AHT spoke briefly about the approval authority with Karen Chapman from the MRPC. No further discussions were held by the AHT. The concept of a hybrid "Approval Authority" was strongly rejected by the Economic Development Committee for their draft ICOD bylaw in September. On September 22nd at 31 minutes 30 seconds into the Economic Development Committee Meeting Capital Group President Bill DiPietri spoke to say: "they had

numerous discussions with the Economic Development Committee and the Affordable Housing Trust about the permitting authority and that this isn't what they 'agreed to.'" At 33 minutes 44 seconds into that meeting Bill DiPietri stated that they had "agreed to the compromise of a hybrid committee." Russ Williston asserted that this compromise was negotiated outside of public meetings and that in the video Bill DiPietri states "Victoria looked into this prior to talking to us." Russ Williston noted that he made public records requests and that the response included emails directly between Victoria Petracca and the "Public Strategy Group" – a Connecticut-based Public Relations firm advising the Capital Group on their website promoting the project. Russ Williston recommends that Victoria Petracca advise the Housing Trust of the origin of the hybrid approval authority: it was something requested by the capital group.

Frank Streeter says the Approval Authority has discussed this.

Tom Christopher notes that Plan Approval Authority is assigned to the Planning Board by the town.

Resident Rob Zidek spoke about reasons he sees it as desirable for the Planning Board to be the Plan Approval Authority.

Resident Jay Moody (a member of the Affordable Housing Trust) says that the Economic Development Committee and Affordable Housing Trust are two committees.

Member Roy Mirabito wanted to ask Jay Moody about his assertion at the last Select Board meeting that the Capital Group should be required to transfer the land it failed to transfer to the town before the Select Board proposed a bylaw change on their behalf. Jay Moody stated that his comments were predicated on the Select Board proposing a bylaw change.

Resident Greg Jackson noted that if 30% of communities use a plan approval authority other than the planning board, that means 70% use the planning board which is more pertinent.

Member Carol Jackson commented that using a hybrid board creates more work for existing board members – will it deter people from volunteering?

Resident Anne Ogilvie: disingenuous to suggest that the two Capital Group projects (40R and the commercial project) are unrelated – one will not go forward without the other.

Resident Kathy Hughes: believes that elected officials should be making these decisions and wants to ensure that this project goes through the regular process, Planning Board and Conservation Commission.

Victoria Petracca: Conservation Commission is appointed and not elected, PAA would not replace order of conditions process.

Tom Christopher: board has discussed the 40R relative to several projects in town. New connection to this particular project is not helpful and maybe not appropriate on this site. Does not necessarily feel that housing is appropriate here.

Victoria Petracca: believes this is better than a 40B project. 40R was in response to a 40B proposal.

5. Review Violations and Active Orders: Review and respond as appropriate to any new information received by meeting time and to consider assessing fines where applicable for new or ongoing stormwater violations at:

a. 201 Hilltop Road (Cease & Desist delivered, Awaiting Stormwater Permit Application)

Chair summarized: cease and desist in place, waiting for Stormwater Permit Application, board has been approving fines at each meeting.

Richard Harrington, engineer for the project, appeared: applicant is engaged with the Conservation Commission. Asks that the board not approve more fines, asks for express permission to conduct soil testing at the site.

Motion by Roy Mirabito: expressly authorize soil testing at the site while the cease and desist continues. Second by Carol Jackson. Discussion:

Tom Christopher: this doesn't remove the cease and desist for other activities, correct? Roy Mirabito and others agree that it does not.

Russ Williston asks Mr. Harrington if they would need anything else to finish their soil testing. Answer is no.

Debra Dennis: would the board like to add an end date to the soil testing allowance? Mr. Harrington requests that it be open ended.

Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

Motion from Carol Jackson: apply additional fines from 10/26/2021 through 11/8/2021 with note that the board may continue to apply additional fines until a complete stormwater permit is received. No discussion. Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

Russ Williston noted that the board has received a date for an appeal in Clinton District Court appeal of the earlier fines.

b. 2038 Lunenburg Road (Cease & Desist delivered, resolution in progress)

Chair summarized this: the board has issued a cease and desist and the applicant is engaged with the conservation commission.

Tom Christopher summarized the developers upcoming meetings with the Conservation Commission regarding notices of intent.

c. 90 Duvall Road (Cease & Desist delivered, Stormwater Permit Application in progress)

Chair summarized this: board issued a cease and desist, applicant has submitted a complete stormwater permit application and is engaged with the Planning Board.

Tom Christopher spoke positively about the developers progress.

Resident Cara Sanford would like to make comments; chair notes that there is a public hearing in progress for the stormwater permit – it would be better not to take comments outside the hearing.

d. Old Union Turnpike, Assessors Map 3 Parcel 4 (Cease & Desist delivered, town counsel engaged)

Chair summarized this: town counsel is engaged but the board has not heard anything for a while.

6. IPOD Bylaw Amendments: Review proposed amendments to the IPOD bylaw, specifically changes proposed by the chair to allow all-business IPOD applications. Review feedback from Planning Board members and review any feedback from the Economic Development Committee received by meeting time. Take any action appropriate. (Continued from 9/13, 9/27 and 10/25)

Chair introduced the draft IPOD bylaw amendments in the boards meeting packet: it includes edits from discussion at the previous meeting.

Member Carol Jackson described some additional amendments she had drafted: maximum square footage for building size (800,000) and requirements for multifamily development taken from 220-9 C(1) -(7).

Russ Williston noted that in suggesting the IPOD bylaw amendments he tried to limit the amendments to the minimum required to accommodate the type of business-only project with

large buildings that the town is presently grappling with. The multifamily amendments don't seem like a hurdle to that, but the maximum building size would make the IPOD bylaw not suitable as a way to accommodate the Capital Group's project. If the board added that maximum building size, it probably wouldn't be necessary to propose the IPOD bylaw amendments at the special town meeting.

Roy Mirabito asked if amendment three in the IPOD amendments is even applicable to the Capital Group's project. (Chair will look it up.)

Resident Cara Sanford spoke that the town should not entertain very large buildings; she is concerned that changes could introduce more issues down the road.

Resident Greg Jackson asked if the board is considering changes to the building height requirement.

Tom Christopher: IPOD bylaw changes should be made with consideration to all the IPOD districts in North Lancaster.

Chair circled back to Amendment 3: the building size maximum change is probably not required to allow the type of IPOD application that the board is targeting. After some discussion, the chair recommended simply striking amendment 3. There's no objection to doing that. Carol withdrew the related change she wanted the board to consider.

Chair asks if the board would send his amendments 1, 2, 4, 5 and 6 to town counsel and the Planning Consultant for feedback. The board expressed interest.

Chair Russ Williston moved to send the IPOD amendments 1, 2, 4, 5 and 6 to Town Counsel, the Planning Consultant and Select Board. Second by Peter Christoph. Discussion:

Roy Mirabito asked if this would leave two meetings to work on this: chair says that's roughly correct – there's an item later in the meeting to talk about a memo setting out a timeline.

Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

Chair states that he'll give a copy to Deb to send out.

7. Discuss Homeowners Trust Required at Hawthorne Hills Subdivision, off Hilltop Road and George Hill Road: update from the chair with info, if any, available at meeting time.
(Continued from 10/25)

Chair introduced this item: at the last meeting the board approved a packet to send to the select board. Chair spoke at the last Select Board Meeting. The Select Board appointed Jay Moody as a liaison for this issue and Jay Moody has begun looking at it.

8. Town Planner Search: Review any available info on progress with the Town Planner search

Carol Jackson: town has chosen a planner and news will follow. The board thanked Carol Jackson for her work on the search committee.

9. Discuss holiday meeting schedule: Review anticipated regular meetings for remainder of the year, through the holidays: 11/22/2021, 12/13/2021, 12/27/2021, 1/10/2021

Chair asked if board members felt confident that they'd all be available for all the meetings during the holiday season. All members seem to be available. Deb Dennis may be challenged to be available for 12/27/2021, but feels confident she can make it work.

10. Discuss suggestion from the chair to anticipate holding public hearings for Special Town Meeting zoning articles at the regular meeting on Monday, January 24th, 2021: Chair will recommend we request the final text of any zoning articles be received by the Planning Board before our regular meeting on 12/27/2021. In anticipation of a February 15th Special Town Meeting the board could then schedule the necessary public hearings at our 12/27/2021 regular meeting, then post the hearings and advertise the hearings in the 1/7/2021 and 1/14/2021 papers.

Chair introduced a memo he drafted, and proposed sending it to boards likely to be submitting zoning bylaw amendments for a February 15th Special Town Meeting. It asks them to submit any zoning bylaw amendments to the Planning Board no later than December 27th to allow time to schedule a hearing.

Motion from Carol Jackson: approve the memo. Second by Peter Christoph. Discussion:

Carol Jackson: asked to add the date (January 24th) that we anticipate holding the hearings on? Russ Williston: happy to do that.

Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

11. Discuss opportunities to update the Planning Board website and eCode.

The chair asked Deb about the eCode town bylaws: they haven't been updated in several years, and all the changes from several town meetings are not reflected in eCode. Deb spoke with the clerk between meetings, and the clerk is looking into when eCode will be updated.

Russ Williston: Does the Planning Board need to request updates to eCode? Deb: it's something the clerk has always handled in the past.

12. Correspondence

a. Email from James Broderick, 10/17/2021: Perkins Project Drainage Concerns

The board reviewed the latest response, from the director of facilities at Perkins. There doesn't seem to be anything the board can do at the moment.

b. Email from Cara Sanford, 10/31/2021: "Orchard Hill Athletic"

Cara Sanford was present to discuss the issues she believes may exist on this property regarding drainage from an expanded parking lot. The board discussed what the stormwater bylaw allows to address an issue like this. Tom Christopher shared the history he knew of the facility and it's expansion. With Ms. Sanfords consent the board took no action at this time.

c. Memo form Lancaster Historical Commission, 11/1/2021: "Property on Old Common Road currently under the control of the Massachusetts Department of Capital Management and Maintenance (DCAMM)"

The board reviewed a memo about the Historical Commissions site visit. Peter Christoph approved of the idea of a museum at the site.

The board reviewed requests for comments from the Select Board regarding a National Grid pole hearings on Old Union Turnpike and Fort Pond Road. The board did not make any comments.

Roy Mirabito asked about response to the board's letter to farmers earlier in the fall. The board did not receive any response. The chair is interested in trying again in the future.

13. Vouchers

No vouchers were available to approve.

14. Review and Approve Minutes

- a. October 25th, 2021 @ 6PM (Regular Session)**
- b. October 25th, 2021 @ 6PM (Executive Session)**
- c. October 25th, 2021 @ 7PM**

No draft minutes were available to review at this meeting.

Adjourn

Motion by Tom Christopher: adjourn. Second by Peter Christoph. No discussion Roll-call vote: Roy Mirabito, yes. Carol Jackson, yes. Tom Christopher, yes. Peter Christoph, yes. Russ Williston, yes. Motion approved, 5-0.

Meeting adjourned at 9:00PM.