

Approved: October 25, 2021

MINUTES OF THE PROCEEDINGS OF THE  
PLANNING BOARD OF THE TOWN OF LANCASTER  
Meeting conducted via ZOOM internet conferencing  
Monday September 13th, 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:

- Hawthorne Hill Estates: Request for Partial Release of Bond
- Hawthorne Hill Estates: Copy of a memo sent from Planning Board to Board of Selectmen detailing issues with transfer of Open Space to the town, from January 2021.
- Proposed amendments to the Lancaster Stormwater Regulations, drafted by Roy Mirabito
- Proposed letter to Lancaster Farmers, with proposed distribution list, asking for comments on Lancaster Zoning. Drafted by Russ Williston.
- Proposed IPOD Bylaw amendments, drafted by Russ Williston, with an introduction letter.
- Request to discontinue a section of Old Lunenburg Road shown on an ANR plan.
- Email invitation to a Public Meeting for the 2021 Multi-Hazard Mitigation Plan-Sept 15th at 6PM
- Email Notice of Devens Enterprise Commission (DEC) Meeting & Executive Committee Meeting on September 15th, 2021
- Email from Cody Blair about runoff from the Harbor Homes development
- Draft minutes for the July 21st, 2021 Planning Board Meeting
- Draft executive session minutes for the July 1st, 2021 Planning Board Meeting.

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Chair Russell Williston called the meeting to order at 7:00 PM.

**Administrative**

**1. Attendance Roll Call**

Roll Call for Attendance:  
Roy Mirabito: Present  
Carol Jackson: Present  
Tom Christopher: Present  
Peter Christoph: Present  
Russell Williston: Present

## **Public Meeting**

### **2. Review Hawthorne Hill Estates - Request of Partial Release of Bond (Continued from August 23rd)**

The chair introduced this item and presented a memo that the board sent to the Board of Selectmen in January, 2021 sharing concerns that the open space related to the Flexible Development permit granted for this subdivision has not been transferred.

Member Tom Christopher stated that given the concerns over the land transfer, a reduction in the bond is not warranted.

Member Roy Mirabito stated that he concurred with Mr. Christopher. He also noted that a homeowners association is required as part of the subdivision.

Member Carol Jackson noted that the land was to be transferred before occupancy permits were issued for the subdivision.

Member Mirabito asked about the process for receiving the open space land.

Larry Shoer, 750 George Hill Road, stated that the transfer of the open space land would require a town meeting vote. He reviewed the history of the Subdivision Approval and deficiencies in meeting the conditions with regard to the open space.

Eric Watson, 717 George Hill Road, stated that the bond should not be reduced for the reasons stated earlier.

**Motion by Carol Jackson: deny request to reduce the performance bond amount. Second by Roy Mirabito. Discussion:**

Member Mirabito suggested that the board enumerate the reasons for denying the bond reduction.

Member Carol Jackson asked to cite concerns with Condition 5 of the approvals for the subdivision, regarding transfer of the open space parcel to the town.

Member Tom Christopher asked to cite that the subdivision has yet to receive a Certificate of Compliance from the Conservation Commission regarding issues at the site.

Member Christopher asked to cite that the developer has not yet established a homeowners association that would be able to accept ongoing responsibility for the subdivisions common areas.

Mr. Shoer offered a comment reiterating concerns about the subdivision conditions.

**Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

### **3. Review and Consider Assessing Fine for new or ongoing Stormwater Violations at: 201 Hilltop Road**

The chair recapped the situation; at the last meeting the board approved two weeks of fines. As of meeting time no stormwater application has been received and the fines have not been paid.

Tom Christopher noted that the developer has issued a restoration plan to the Conservation Commission related to work done within the wetland setbacks. They are contesting some of the consultant's findings. The Conservation Commission has not fined them yet.

**Motion by Roy Mirabito: approve fines for the continuing violation from 8/24/2021 through 9/13/2021, with a note that fines may continue until a complete stormwater application is received. Second by Carol Jackson. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

### **90 Duvall Road**

The chair recapped the situation; the board approved a cease and desist on 9/13, and two weeks of fines on 9/27.

Deb Dennis notified the board that the developer paid the issued fines. A complete stormwater permit has not been received yet.

Tom Christopher relayed that the Conservation Commission's fines have also been paid.

**Motion by Carol Jackson: authorize Deb Dennis as the board's agent to issue fines for the continuing violation from 8/24/2021 through 9/13/2021. Second by Roy Mirabito. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

### **Harbor Hills development, Lunenburg Road**

The chair recapped the situation: there is a stormwater permit approved for this project. A stormwater issue was reported by Tom Christopher, David Koonce and others after rainfall. At the prior meeting the board discussed the retention basin at the site. The board authorized David Koonce, as the board's agent under the stormwater bylaw, to review the situation and issue a cease and desist if it's appropriate. David Koonce did issue a cease and desist for the board between meetings.

Tom Christopher relayed that the applicant appeared at the last Conservation Commission and that the Conservation Commission likely will issue fines in regards to the issues they are handling.

Carol Jackson asked if fines should be issued. Tom Christopher, Roy Mirabito and Carol Jackson discussed whether fines should be issued. There were possibly two documented violations.

Tom Christopher spoke at length about the status of the detention basins of the site; they have not yet been constructed as designed and there are several "temporary" basins on the site.

Russ Williston noted that there is currently an issue with the Stormwater approval letter issued on the project; it was not published and delivered last year. The board is currently working to resolve that..

### **4. Review Proposed Stormwater Regulation Amendments, take any action appropriate (Roy Mirabito)**

The chair introduced the agenda item: at the last meeting the Board asked Roy Mirabito to draft some stormwater regulation amendments to effect his suggestions regarding solar panels as impervious surfaces. The board has in its packets Roy's draft amendments.

Roy Mirabito introduced his proposal, to amend the regulations to include the total area of solar panels on a site as impervious surface for the required calculations.

Tom Christopher commented that his inclination is to amend the stormwater regulations or bylaws to prohibit ground mounted solar panels on extreme slopes, or possibly in areas with problematic soil as that has historically been where Lancaster has encountered issues. 33% is the natural slope of soil. Even 15% might be too steep a grade for solar panels; he would recommend 10%.

Roy noted that he feels we should make the stormwater regulations as firm and guiding as possible; he feels they're currently pretty loose.

Resident Frank Streeter made a comment on solar panels as impervious surfaces: the panel's effect is to move the water several feet to the side, but most of the surface at a site remains permeable beneath the panel. As a surface the panels are "striped" rather than "solid."

Roy inquired about running some sample stormwater calculations through a town engineer. Carol Jackson, Russ Williston and Tom Christopher concurred that this would be helpful, possibly with several of the real-world projects the board has had experience with.

**Tom Christopher moved that the board ask Tom Christopher and Roy Mirabito to prepare an RFP for Deb to send out for quotes, requesting feedback on the effects of altered stormwater regulations for several sample projects. 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.**

**5. Update from chair on progress dealing with the Barrett IZ Study, double payment from Planning Board Revolving Fund. Review letter sent to the Finance Committee. Take any action appropriate.**

The chair introduced this agenda item. At a previous Select Board meeting the town administrator had recommended that the board reach out to the finance committee to have \$8000 transferred back to the Planning Board revolving fund. The recording of that Select Board meeting was lost, but at the last Planning Board meeting, finance committee member Dick Trussell spoke to share this information.

As recommended, the chair drafted a letter to the finance committee requesting the transfer to the Planning Board revolving fund. Finance Committee chair Michell Vasquez acknowledged receipt of the letter, and the topic will appear on the next finance committee agenda.

Carol Jackson stated concerns about how the double payment happened.

**6. Review proposed letter to Lancaster farmers, Soliciting feedback on existing zoning and opportunities for agritourism improvements. Take any action appropriate. (Russ Williston)**

The chair introduced the agenda item. The chair wants to send a request for comments to farms in Lancaster. He wants to ask if there's any zoning in Lancaster that is making agritourism difficult in Lancaster. He prepared a draft letter and distribution list based on a 2021 61A list received from the town assessor.

Carol Jackson expressed support for sending a letter.

Tom Christopher spoke of his desire to support farms, and to make sure that it's clear what's allowed and what's not allowed.

Roy Mirabito commented on the importance of farms in town, and his desire to support agriculture.

**Motion by Carol Jackson: send the letter as drafted from the board, with the proposed distribution list. Second by Roy Mirabito. Discussion:**

Deb Dennis is available tomorrow to prepare the letters on the Planning Board letterhead.

**Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

**7. Review proposed amendments to the IPOD bylaw, specifically changes to allow all business IPOD applications. Take any action appropriate. (Russ Williston)**

The chair introduced the agenda item. In the board's packet are some proposed amendments to the IPOD bylaw that he drafted, with an introduction letter. The impetus for the changes is to allow IPOD applications with site plans that don't meet the current requirement for a minimum of 25% residential gross floor area.

The chair walked through the five amendments he recommends: the amendments would remove the residential requirement, alter the intent statement, remove an ambiguous requirement that the development “not have a material impact on the neighborhood”, alter the phasing requirement, and remove a cap on the size of enterprise zone use structures outside of the enterprise zone.

Roy Mirabito approved of reworking the IPOD bylaw as an approach to this need, maintaining the protections for the town that the IPOD bylaw includes.

Carol Jackson is pleased the board is working on this and thinks the draft is a great start. Would like to see an amendment to ensure that IPODs aren’t just a vehicle to build dense housing. The chair commented that an additional amendment might be a change to the allowed number of housing units per acre.

Carol Jackson, question about amendment 3: would like to see some limit on gross square footage of a single structure outside the Enterprise Zone. Some discussion ensued on how to word that and whether it should be a hard limit or an advisory of the towns preference.

Tom Christopher noted that the IPOD districts are overlay districts to allow special uses in the residential zone: they should be carefully reviewed. The requirements should be specific and protect the environment -- traffic is critical.

Chair says what he would like to do tonight is get approval to send the bylaw changes to the “Economic Development Committee” for review. Roy Mirabito notes they’re meeting on Wednesday.

**Motion by Roy Mirabito: allow the chair to send the proposed amendments to the Economic Development Committee for review. Second by Carol Jackson. Discussion:**

Peter Christoph asked for clarification on how the proposed amendments would affect housing in an IPOD: the chair clarified that they would still allow housing to be included, it just wouldn’t require it. Peter asked whether housing in this area has a benefit to the town: some discussion ensued.

Tom Christopher stated that he doesn't necessarily see the benefit of mixing housing with commercial and industrial development.

**Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

## **8. Review request to discontinue a section of Old Lunenburg Road, issue a report on the**

## proposal.

The chair introduced this item: the board has in their packets a letter from May requesting that the town discontinue a small section of “Old Lunenburg Road” near the Nationwide Auto facility on Lunenburg Road and an ANR plan showing the road stub. The board is required to make a report regarding the request.

The board has in their packets a report drafted by the chair that states the the board found no reason to disadvise discontinuing the road section described in the letter: that draft report is available for the board to approve if it’s accurate.

Before the meeting the chair confirmed that this is a different section of Old Lunenburg Road than the one discontinued at the 2009 Annual town meeting. They are both shown on the same plan, but this request refers to the other section that was not previously discontinued. The chair is not aware of any reason to disadvise the discontinuance.

Tom Christopher is not aware of any reason to not discontinue the road.

Resident Martha Moore spoke to confirm that this section of road is not the section she is familiar with and uses to get onto 70. It is not.

**Motion by Peter Christoph: approve the report drafted by the chair, reporting that the board found no reason to disadvise discontinuing the road section requested. 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.**

## 9. Correspondence

The chair reviewed an email from Cody Blair on September 10th: Mr. Blair shared runoff concerns related to the Harbor Homes development, water use on the site, and the location of the road discontinuance. With the board's consent the chair will respond.

### **a. Public Meeting for the 2021 Multi-Hazard Mitigation Plan-Sept 15th at 6PM**

The board reviewed the invitation

### **b. Notice of Devens Enterprise Commission (DEC) Meeting & Executive Committee Meeting on September 15th, 2021**

The board reviewed the invitation.

## 10. Review any available info on progress with Town Planner Search



Carol Jackson relayed that the search committee will interview three applicants on 9/22. The posting is also still open and receiving resumes.

## **11. Vouchers**

**Motion by Tom Christopher: approve voucher from Haley Ward for \$772.50 for professional services on 438 Old Union Turnpike. Second by Carol Jackson. Discussion:**

Chair notes that this is an invoice from May that was unpaid. Project is closed out but Deb Dennis confirmed that there's still money in the project account to pay this.

**Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

## **12. Minutes:**

At meeting time minutes for the following meetings were outstanding:

- a. July 1st (Executive Session)
- b. July 26, 2021
- c. August 9, 2021
- d. August 23, 2021

Draft minutes for July 1st (Executive Session) and July 26 are available to approve.

**Motion by Carol Jackson: approve, but not release, the July 1st 2021 Executive Session draft minutes. 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.**

Chair noted that the state's recommendations is that the board review unreleased executive session minutes for release at least quarterly, and the board will do so at the end of September.

**Motion by Carol Jackson: approve the July 26th, 2021 draft minutes. 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.**

## **Adjourn**

**Motion by Carol Jackson: adjourn, Roy Mirabito seconded. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.**

**The meeting was adjourned at 8:54PM.**