

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 27th, 2021

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

Absent: Tom Christopher

Staff Present: Debra Dennis, Administrative Assistant

List of Documents:

- McGovern Blvd Subdivision Amendment: Written request to continue until December 13th, 2021.
- Email from Erin Smith, Hawthorne Hills, regarding contractor equipment in the road
- Email from Victoria Petracca, Affordable Housing Trust, relaying a review of their 40R bylaw by Michael Antonellis.
- Proposed response the Affordable Housing Trust regarding 40R bylaw approval authority, drafted by the chair
- Draft minutes for the August 23rd, 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**

The chair relayed that Tom Christopher called before the meeting to let him know he would be absent.

Russell Williston: Yes

Roy Mirabito: Yes

Carol Jackson: Yes

Tom Christopher: No

Peter Christoph: Yes

## **Public Meeting**

### **2. Request for continuance: North Lancaster for approval of an Amended Definitive Plan**

Phase 2 entitled “McGovern Boulevard Phase II: Roadway Construction in Lancaster Mass, relative to the roadway construction for the approved Definitive Subdivision (continued from August 23rd)

Between meetings the applicant submitted a written request to continue this hearing until December 13th, 2021.

**Motion by Carol Jackson: continue the hearing until December 13th, 2021 at the applicants request. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

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

This is a project that has received a stormwater cease and desist some time ago; the board has issued additional fines at each subsequent meeting. The board received notice between meetings that they’re appealing the initial fine, but no date has been set yet. As of meeting time a complete stormwater permit application has yet to be received.

Richard Harrington, engineer for the project, spoke to request a stay of further fines until November 8th. The developer is engaged with the conservation commission on wetlands issues. Mr. Harrington also requested a reprieve from the cease and desist to seed the site with winter rye.

David Koonce, Town Conservation Agent, expressed that allowing stabilization on the site is desirable.

Carol Jackson expressed that the applicant should have had this permit prior to work, and opposes withholding further fines.

Roy Mirabito believes fines should continue until the completed stormwater permit is received.

Carol Jackson asked David Koonce to confirm that the grass proposed is appropriate: Mr. Koonce expressed that it would be fine for the winter.

**Motion by Roy Mirabito: grant relief from the cease and desist to plant grass for the next two weeks. Second by Carol Jackson. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**  
**Motion by Carol Jackson: approve continuing fines, for September 14th through September 27th, with the warning that fines may continue until a complete stormwater permit application is received. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

### **90 Duvall Road-Stormwater Application Received**

The board has previously issued a cease and desist and subsequent fines for this project. They submitted a complete stormwater application between meetings; it was received on September 21st, 2021.

**Motion by Carol Jackson: approve continuing fines, for September 14th through September 21st. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

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

The board has a cease and desist in place for this project, related to stormwater issues observed in August at the site.

Atty. Peter Campobasso was in attendance for the developer. They've been monitoring the site closely since the issue occurred, and stopped work after receiving the cease and desist. They are preparing a site stabilization plan but don't have an estimated date of completion yet. Atty. Campobasso requested relief from the cease and desist to perform stabilization work at the site, including loaming and seeding with piles already at the site. Another unused loam pile would be seeded.

The chair asked how long stabilization work would take. Atty. Campobasso said it would take two weeks; if any issues arose they would notify Town Conservation Agent David Koonce.

Roy Mirabito requested David Koonces input. David Koonce affirmed that stabilization work as Atty. Campobasso described would be desirable.

Resident Cara Sanford stated that she had requested the EPA investigate the lack of an MPDES stormwater permit at this site. She stated that the developer was recently fined in Lunenburg for lacking this permit.

David Koonce relayed a draft report from the EPA representative who visited the site the previous Friday. It cited the lack of stabilization at the site.

Carol Jackson asked David Koonce if a violation of the Stormwater Bylaw occurred. David Koonce noted that it probably had, but that the stormwater permit approval had never been published. (An issue the board has been working to resolve.)

**Motion by Carol Jackson: approve relief from the cease and desist to perform stabilization work at the site through September 13th. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

#### **4. Missing approvals for Harbor Hill Subdivision: review new information available at meeting time, if any, and take any action appropriate**

The chair introduced this item. Between meetings Debra Dennis located the approval letters for the Harbor Hills Definitive Subdivision Plan, Site Plan, and Stormwater Permit. Those were all affirmatively voted on June 8th, 2020 but the approvals were never signed and delivered.

The chair recommended that the board hang onto these until the next meeting so that Tom Christopher can also review them.

The chair recognized Victoria Petracca who had some related questions about the two affordable units that were required as a condition of the IPOD Special Permit issued to the developer. There are two applications that should be submitted for the approved affordable units; they could have been filed as soon as the project was approved.

Atty. Campobasso confirmed that he did receive the information that Victoria Petracca forwarded. He will be happy to look into it and will be ready to talk about it again at the 10/25/2021 Planning Board meeting. Victoria Petracca confirmed that she will attend to participate in that conversation.

#### **5. Proposed Stormwater Regulation Amendments: review any new information received**

**and take any action appropriate**

At the previous meeting the board asked Roy Mirabito and Tom Christopher to prepare an RFP that the board could send out to get quotes for engineering work to investigate the effect of considering solar panels an “impervious surface” for purposes of the Lancaster Stormwater Regulations.

Roy relayed that after considering the problem, he would like to take a different approach to the problem. Considering solar panels an impervious surface may not be desirable. He is going to investigate further and will report back at a future meeting.

**6. Update from chair on progress dealing with Barrett IZ Study, double payment from Planning Board Revolving Fund. Review new information, if any, received by meeting time.**

The Finance Committee has not met yet: the chair had no update.

**7. Review proposed amendments to the IPOD bylaw, specifically changes to allow all-business IPOD applications. Review by Planning Board members and review any Economic Development Committee feedback received by meeting time. Take any action appropriate. (Continued from the previous meeting.)**

At the previous meeting the board reviewed IPOD bylaw amendments drafted by the chair, and authorized him to send them to the Economic Development Commission for review.

The chair relayed that the Economic Development Committee met twice since the prior Planning Board meeting and did not discuss the IPOD bylaw amendments. The chair relayed that Phillip Eugene subsequently stated that “he did not feel it was appropriate to review another committee’s bylaw.”

The chair stated that he felt the board should continue to develop the IPOD amendments.

Carol Jackson also stated that the board should continue to develop the IPOD amendments. She stated a preference toward reducing the allowed housing units per acre in the IPOD district. The chair noted the the IPOD bylaw permits 15 units per acre now, and if the residential requirement is removed that may not be necessary. The allowed units per acre was increased from 1 to 15 in 2017.

Resident Cara Sanford stated that the ICOD bylaw being developed by the Economic Development Committee seems like spot zoning.

Roy stated a preference for a solution using a special permit process, which the IPOD bylaw uses and the ICOD bylaw in development does not.

Deb Dennis relayed a concern from Greg Jackson about building height in the IPOD and ICOD bylaws. Right now IPOD allows a greater peak height, but has more requirements for ensuring the peak is concealed.

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

Carol Jackson relayed that the search committee has interviewed two applicants and is still accepting applications.

## **Other Business**

### **9. Correspondence**

#### **a. Email from Erin Smith, Hawthorne Hills, Contractor Equipment on Road**

The board reviewed Ms. Smith's email. There is a great deal of Melanson Bros., Inc contractor equipment on the road on Hawthorne Lane. Despite efforts by the fire chief and Health Agent, the problem still persists as of meeting time.

Roy Mirabito expressed concern about Ms. Smith's note that Melanson Bros. appears to be undergoing a business change and is selling off equipment.

Carol Jackson questioned if this might be a special permit violation.

Discussion ensued about other unfulfilled requirements at the subdivision that could be impacted by a change in the contractors business. The chair indicated that will run this item on the next agenda, with the aim of sending a letter to the Select Board.

#### **b. Email from Victoria Petracca, Affordable Housing Trust, review of 40R bylaw by Michael Antonellis. Consider providing feedback regarding Approval Authority. (See draft)**

Current draft of the 40R bylaw specifies an alternate approval authority for the 40R district: rather than the Planning Board it would be a hybrid authority assembled with members of five committees.

The board has a draft response in their packets to consider. The draft response disrecommends the use of an alternate approval authority for the 40R district.

The board reviewed the draft response.

Victoria Petracca and Frank Streeter from the Affordable Housing Trust spoke to some of the points in the board's draft response.

**Motion by Peter Christoph: approve sending the response letter as drafted to the Affordable Housing Trust. Second by Carol Jackson. Discussion:**

Peter Christoph prefers the approval authority recommended by the Montachusett Regional Planning Commission: the Planning Board.

Russ Williston feels strongly that the approval authority should be the Planning Board; an alternate approval authority would be conspicuous and raise questions about the bylaw.

Deb Dennis read several text chat comments: Martha Moore felt the Economic Development Committee duplicated the work of other boards, and should not be focused on specific bylaws.

Frank Streeter: spoke in opposition to the comment in the letter that an appointed board would be less independent.

The chair read text chat comments: Kathy Hughes stated that the approval authority should be elected officials.

Roy Mirabito stated that the Economic Development Committee had this discussion with regard to the ICOD bylaw, and decided that the approval authority should be the Planning Board.

**Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

## **10. Vouchers**

No vouchers were available for review at meeting time.

## **11. Minutes:**

Minutes for two past meetings were outstanding:

- a. August 23, 2021
- b. September 13, 2021

Draft minutes for the August 23rd Planning Board meeting were available to approve.

The board reviewed the draft August 23rd Planning Board minutes. A number of minor spelling errors were addressed, including multiple misspellings of “Mirabito.”

**Motion by Roy Mirabito: approve the August 23rd draft minutes as amended. Second by Peter Christoph. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Abstain, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 3-0-1 with Carol abstaining.**

**12. Quarterly review of retained Executive Session Minutes. Consider approving for release:**

**a. July 1st (Executive Session)**

The chair recommends finding that the reason for the executive session on July 1st, 2021 still exists and that the board continue to retain those minutes for now.

**Motion by Peter Christoph: find that the reason for the Executive session on July 1st still exists, and continue retaining those minutes. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

The chair noted that the board should review its executive session minutes again in December, at the end of the next quarter.

**Adjourn**

**Motion by Carol Jackson: Adjourn. Second by Peter Christoph. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.**

**The meeting was adjourned at 8:51PM.**