

Approved: September 27, 2021

MINUTES OF THE PROCEEDINGS OF THE  
PLANNING BOARD OF THE TOWN OF LANCASTER  
Meeting conducted via ZOOM internet conferencing  
Monday August 9th, 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:

- 438 Old Union Turnpike: Request for Stormwater Permit Certificate of Completion
- 438 Old Union Turnpike: Haley Ward review of the above permit's completion
- 438 Old Union Turnpike: Stormwater Management Operations Manual
- 90 Duvall Road: Documentation of stormwater permit violations, from Tom Christopher and David Koonce
- 201 Hilltop Road: Email from Richard Harrington, who's working on the stormwater permit for the project.
- Copy of the "Fine" form used by the Conservation Committee
- Draft letter to Lancaster Board of Selectmen regarding Planning Director search process
- Draft minutes for the Planning Board Meeting on June 21st, 2021

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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:**

Russell Williston: Present

Roy Mirabito: Present

Carol Jackson: Present

Tom Christopher: Present

## **Public Meeting**

### **2. Hawthorne Hill Estates-Request of partial release of bond**

The chair confirmed that no one from Haley Ward (review engineer) or the applicant were present.

The chair announced that some documents requested by board members were not available yet, and suggested that the board not take any action tonight. The board had no objection.

Member Roy Mirabito stated that he would like to see the cited “agreement with the Town of Lancaster regarding operation of the pump station” -- the chair confirmed that this is the specific document that had been requested.

### **3. 438 Old Union Turnpike: Request for Certificate of Completion (Continued)**

The chair recapped the board's review of this request for a stormwater permit certificate of completion at the previous meeting. Things seemed to be in order at the last meeting, but the “Operations Manual” was not available at that time. The board has now received the “Operations Manual.”

Member Carol Jackson asked about a deviation in one of the retention basins cited by the town’s engineer -- it’s 3-4 inches shallower than anticipated. The chair redirected the question to Tom Christopher: is that a material deviation in his experience? Tom Christopher stated that it’s within an acceptable range and seems unlikely to be an issue in the future.

Member Carol Jackson asked about the operations manual -- will it be included with the permit? Deb suggested that we include a requirement with the motion we make.

**Motion by Tom Christopher: approve the stormwater permit certificate of completion, with a condition that the applicant notify the board should the property change hands. No discussion. Roll call vote: Tom Christopher: Yes; Roy Mirabito: Yes; Carol Jackson: Yes; Peter Christoph: Yes; Russ Williston: Yes. Motion is approved, 5-0.**

### **4. Consider Stormwater Bylaw enforcement options, 90 Duvall Road.**

The board reviewed documentation, from Town Conservation Agent David Koonce and Tom Christopher, of work at this location requiring a special permit without such a permit.

The chair recommended authorizing David Koonce to act as the board’s agent under the stormwater bylaw here, to send a cease and desist.

**Motion by Peter Christoph: authorize Town Conservation Agent David Koonce to act as the board's agent with regard to the stormwater bylaw, to issue a cease and desist until a Stormwater Permit is approved. Second by Carol Jackson. No discussion. Roll call vote: Tom Christopher: Yes; Roy Mirabito: Yes; Carol Jackson: Yes; Peter Christoph: Yes; Russ Williston: Yes. Motion is approved, 5-0.**

## **5. Discuss process for assessing fines**

The chair introduced the discussion: at the last meeting the board suggested an interest in issuing fines for some of the Stormwater Permit violations that have been identified. Deb Dennis provided a sample form used by the Conservation Commission to issue fines.

The board discussed at some length the contents of the form and the requirements for issuing fines.

Member Roy Mirabito reviewed the fines on the schedule in the town bylaws. There are escalating fees listed, with fines for each day and partial day of an ongoing violation.

The board edited the sample fine form slightly until it seemed to be appropriate for use by the Planning Board.

## **6. Consider assessing fines for stormwater violations at 0 Old Union Turnpike and 201 Hilltop Road**

The board discussed fines for the various ongoing stormwater violations that the board has been aware of:

**0 Old Union Turnpike Solar Field:** The board discussed the violations the board is aware of. There is a cease and desist in place, but the site does have a stormwater permit. Documentation of specific violations on one particular day do exist. The board took no action during this meeting.

**201 Hilltop Road:** The board discussed the violations that board is aware of, which date back to June and earlier. A cease and desist was delivered on July 28th, 2021 and an incomplete application was presented.

**Motion by Tom Christopher: issue a fine for the period beginning July 28th and ending on August 9th, indicating that fines may continue to be assessed until a complete stormwater application is received. Second by Carol Jackson. Discussion:**

The board discussed how ongoing fines could be issued in the future.

The board discussed the wording for how the warning that fines may be ongoing might best be written.

Deb Dennis asked questions to clarify that she understood the board's intention.

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

**90 Duvall Road:** The board discussed the property that is the subject of an enforcement order approved today. The board took no action with regard to a fine at this meeting.

The chair offered to present some questions that had emerged to town counsel and report back at the next meeting. The board assembled an informal list of questions for the chair to ask.

**7. Discuss proposed change to Stormwater Rules and Regulations: include total area of solar panels in list of surfaces that qualify as impervious**

Roy Mirabito introduced a change that he wanted to recommend to the Board's "Stormwater Rules and Regulations." It emerged from a Conservation Commission discussion. Currently the regulations don't require solar panels to be considered an impervious surface for purposes of the bylaw.

The board reviewed the current language; the chair read the current definition of "Impervious Surface."

Resident Larry Shoar suggested that other communities do not consider the panels as an impervious surface because there are repeated gaps between the panels.

Member Tom Christopher provided several examples from his work and within the town.

The board resolved to send the question to Town Planning Consultant Michael Antonellis for review, to ask how this has been handled in other communities.

**8. Annual election of Lancaster "Montachusett Regional Planning Commission" (MRPC) representative.**

The chair described this role and its responsibilities.

Peter Christoph indicated an interest in nominating Carol Jackson: she's unavailable as the Selectmen recently appointed Carol as the town's alternate member.

**Motion by Peter Christoph: elect Russ Williston as the town's MRPC representative for 2021-2022. Second by Carol Jackson. No discussion. Roll call vote: Tom Christopher: Yes; Roy Mirabito: Yes; Carol Jackson: Yes; Peter Christoph: Yes; Russ Williston: Yes. Motion is approved, 5-0.**

**9. Planning Director Search Process: discuss progress and current status and consider sending correspondence.**

The chair presented a letter he drafted for the Planning Board to send to the Board of Selectmen. It reiterates what the bylaws say about this role, and the history of the advertising for the role as uncovered

by Carol Jackson. It recommends that the Board of Selectmen accelerated control of this process and consider passing control of this process to the Planning Board.

Mark Grasso, member of the search committee, made himself available for questions. He reiterated he has no desire for the search committee to deviate from the roles and responsibilities in the town bylaws.

**Motion by Peter Christoph: send the letter. Second by Roy Mirabito. Discussion:**

Roy Mirabito stated that the lack of advertising for the role, detailed in the letter, is abhorrent. The chair concurred.

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

The chair indicated that he'll prepare the final copy and send it to to Select Board on the board's behalf.

### Other Business

#### **10. Correspondence**

- **Confirmations from David Koonce, Town Conservation Agent: Stormwater Cease and Desists were delivered to 0 Old Union Turnpike and 201 Hilltop Road**

The chair relayed that he'd thanked David on the board's behalf. Roy relayed a typo in the Cease and Desist, which the chair will pass on to David

- **7/16 email from James Cost "Subdivision in Clinton at Lancaster Town Line"**

The board concurred with the chair that there seemed to be little the board could do to assist; the chair indicated that he'd correspond with Mr. Cost.

- **Message from Select Board/Kathy Rocco looking for an MBTA rep**

The board briefly discussed the role.

#### **11. Vouchers**

No vouchers were available to review at this meeting.

#### **12. Minutes:**

Outstanding minutes at the time of the meeting included:

- a. June 21, 2021
- b. July 1<sup>st</sup> (Regular Session)
- c. July 1<sup>st</sup> (Executive Session)
- d. July 26, 2021

Draft June 21st minutes were available to approve.

Tom Christopher expressed that he would recuse himself from this agenda item.

**Motion by Roy Mirabito: approve the June 21st draft minutes. Second by Peter Christoph. No discussion. Roll call vote: Roy Mirabito: Yes; Carol Jackson: Yes; Peter Christoph: Yes; Russ Williston: Yes. Motion is approved, 4-0.**

### **Adjourn**

Member Roy Mirabito asked about progress with resolving the issue the board had encountered earlier in the year with The Barrett Consulting Inclusionary Zoning Feasibility Study. The town had made a double payment on the board's behalf. The Select Board had requested that the Town Administrator contact the board to resolve it. The chair indicated that he'd place it on the next agenda.

**Peter Christoph moved to adjourn, Roy Mirabito seconded. No discussion. Roll call vote: Tom Christopher: Yes; Roy Mirabito: Yes; Carol Jackson: Yes; Peter Christoph: Yes; Russ Williston: Yes. Motion is approved, 5-0.**

**The board voted to adjourn at 9:42PM.**