



**Townsend Planning Board**  
Selectmen's Chambers  
272 Main St.  
Townsend, MA 01469  
**Meeting Minutes: March 12, 2018**

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TOWN OF TOWNSEND  
TOWN CLERK

## **1.0 PRELIMINARIES**

- 1.1 Chairman Lance McNally called the meeting to order at 6:32 p.m.  
1.2 **Roll call:** Chris Nocella (CN), Ed Howard (EH), Laura Shifrin (LS) attending remotely. The permission regulation for remote participation was read. Members absent: Kathy Araujo and Associate Member Jerrilyn T. Bozicas

**1.3 Additions or Deletions not reasonably anticipated by the chair 48 hours in Advance of the Meeting.**

- 3.2 7 Trophy Ave  
3.3 Recreational Marijuana update

**1.4 Approval of the 2-26-28 and 3-5-18 Planning board meeting minutes.**

L. Shifrin requested some changes to the 2-26-18 draft minutes including the clarification of work in progress of the accessory apartments bylaw with focus on educating the public and bringing this bylaw again to town meeting. L. Shifrin agreed to work with B. Faxon to include the changes and finalize the draft minutes of February 26<sup>th</sup>, 2018.

Upon a motion made by C. Nocella, seconded by E. Howard is was:  
VOTED: to accept the February 26<sup>th</sup>, 2018 meeting minutes with the changes discussed and, the March 5<sup>th</sup>, 2018 meeting minutes as drafted  
The motion passed with roll call vote: (YES - C. Nocella, E. Howard, L. McNally, L. Shifrin)

- 1.5 **Administrators report.** B. Faxon has been called to report for civic duty and has no report for the Planning board at the time of the meeting. C. Nocella moved to hear the Administrators report to the 3/26/18 meeting. All in favor.

## **2.0 APPOINTMENTS**

- 2.1 **6:40 p.m. Site Plan Review for Special Permit for Open Space Preservation Development (OSPD)**  
**Applicant:** Townsend Hill Realty Trust  
**Location:** 187 North End Road.  
**Present:** Stan Dillis, Ducharme & Dillis Civil Design

Chairman McNally read the Legal notice aloud to open a public hearing for the OSPD Special Permit at 187 North End Road. He explained that due to facts unknown, the planning board would not have an adequate number of members present at the hearings to review the project Special Permit. Reasons for Planning board member's absence include extended illness, travel and the expiration of Planning board member Ed Howard's term. The participation of a full board during the public hearing site review process is critical to equity and fairness to the applicant and the Town in the decision process. A special permit reviewed by the Planning board will be determined by a super majority vote of the five member Planning Board. In consideration of expected member absences, and the expiration of a member's term, Chairman McNally proposed that we continue the public hearing for the Site Plan Review for OSPD Special Permit. Mr. Dillis agreed and discussion ensued as to a certain continuance date with Mr. Dillis and board members.

Upon a motion by L. Shifrin, seconded by E. Howard it was;

VOTED: to continue the public hearing for the OSPD Special Permit at 187 North End Road to May 7<sup>th</sup>, 2018 at 6:40 P.M. The motion passed by roll call vote: (YES - L. Shifrin, C. Nocella, L. McNally, E. Howard)

### **3.0 WORKSESSION**

#### **3.2 7 Trophy Ave. Decision Special Permit Modification of the Open Space Preservation Development Permit and the Definitive Subdivision Plan - 2009 as amended 2013.**

Chairman McNally explained that during 3-5-18 Planning board meeting the board voted on the Decision for the Special Permit for 7 Trophy Ave. Procedure requires a super majority defined as 4 out of 5 board members participate in the vote on the project Decision. In fact four members voted with three in favor and one against the Decision, which was not a super majority. On 3-7-18, the Planning board received a letter from the attorney representing the applicant asking that the Board consider a re-vote of the action taken at the 3-5-18 Planning board meeting. Chairman McNally consulted with Town Counsel who verified that the Planning board requires a super majority vote on a Special Permit Decision.

Chairman McNally updated that the planning board is in receipt of a letter from the applicant's attorney offering a formal extension to the planning board of April 30<sup>th</sup>, 2018, to enter a Special Permit Decision for 7 Trophy Ave. with the Town Clerk.

The two tasks put forth to the Planning board in this session would be first to take a vote on a re-vote, and second to take a vote to accept the formal extension from the Applicant.

CN would like to have planning board member K. Araujo present if a re-vote were to be taken. Chairman McNally explained that we were not aware of the regulation that the Board requires a supermajority for a Decision on a Special Permit, noting the responsibility of the Board to uphold the law and rectify a procedural mistake. He read aloud the advice from Town counsel and reiterated what the recommendation is. The advice is that it is not necessary but in the

light of the level of confusion over the supermajority, it is prudent to re-vote. In future votes on special permits, we will not take a vote unless all five Board members are present. L.S noted that at numerous times during the 7 Trophy Ave hearings, board member K. Araujo addressed the issue with the applicant regarding continuing with holding hearings without a super majority present. She added that J. Bozicas was present for all the public hearings and attended the site walk. So, she concluded, there are five planning board members who can be present for a re-vote, as long as it occurs prior to the expiration of Mr. Howard's term (April 25<sup>th</sup>).

Chairman McNally suggested a re-vote while E. Howard is still on the planning board. E. Howard noted that there was clearly some confusion by the planning board regarding the supermajority requirement of the original vote. He stated out of fairness to everyone, it would be a prudent choice to re-vote.

Upon a motion made by L. Shifrin, and seconded by E. Howard it was;  
VOTED: To re-vote the Planning board Decision for Special Permit - 7 Trophy Ave. The motion passed by roll call vote: (YES – L. McNally, L. Shifrin, E. Howard, C. Nocella)

Upon a motion made by L. Shifrin, seconded by E. Howard it was;  
VOTED: To accept the formal extension by the Applicant to allow the Planning board until April 30<sup>th</sup> to enter a Special Permit Decision for 7 Trophy Ave. with the Town Clerk. The motion passed with a roll call vote: (YES – L. McNally, L. Shifrin, E. Howard, C. Nocella)

Discussion continued regarding the necessity to have 5 planning board members present at the next vote. Chairman McNally noted that all attempts would be made to confirm attendance of planning board members in advance of the meeting. If, for any reason, it is not complete, then another extension may be necessary. The Planning board with re-vote the Special Permit Decision for 7 Trophy Ave. at the **Monday April 9<sup>th</sup> 2018**, planning board meeting.

### **3.3 Recreational Marijuana update**

E. Howard reviewed and commented to the Planning board on a draft Recreational Marijuana bylaw from a neighboring town. He outlined some of the limitations and ambiguities in the draft bylaw with regards to its applicability to the Town of Townsend. The purpose being to gain a better understanding when the Town prepares to create a Recreational Marijuana bylaw. He used the example of security requirements, which seemed overly impractical in nature. He added that some of the limitations in this draft bylaw appeared overly burdensome, for example the 500 foot buffer from all other buildings, which will most likely create business and zoning complications for the licensed business. A Board member asked if the number of potential recreational marijuana establishments would be tied to present number of liquor licenses issued by the Town. The answer was yes, 20% of the liquor licenses issued could be approved for recreational marijuana business sales. This was deemed to be one for the

Town. Mr. Howard continued to explain that everything would be completed through a state application. It is the responsibility of the Planning Board to Create the regulations for the bylaw.

He explained a situation whereby the state can permit a dispensary, then if the applicant approaches towns wherein less than 50% voted in favor of the article, then they applicant would not be allowed to practice in said Town. The license is from the state, he continued, and it is up to each Town to have the bylaws and regulations in place prior to approval. The burden, he added would be on the licensee to convince the board that they have a location that is allowable under the bylaw. Prior to operations, the chief must approve, and the site plans must have approval. The transfer of license was delineated, if there is abandonment, transfer, etc. the licensee would need to go through the permit process again. Because the Town voted in favor of the State ballot question, we cannot regulate recreational marijuana out. Mr. Howard noted that all towns are filing moratoriums and some are crafting bylaws.

Mr. Howard read the Notices from other Towns.

Upon a motion made by C. Nocella, seconded by E. Howard it was;

VOTED: to adjourn the meeting at 7:35 p.m. The motion passed with a roll call vote: (YES – L. McNally, L. Shifrin, E. Howard, C. Nocella)

Respectfully Submitted,  
Beth Faxon Planning and Zoning Administrator

Exhibits on file in the Land Use office:

1. Application and Site plan for 187 North End Road OSDP Special Permit.
2. Letter from attorney Re: 7 Trophy Ave
3. Email exchanges between Chairman McNally and Town Counsel
4. Letter from Applicant's attorney to Planning Board granting extension until April 30th, 2018 to file Special Permit Decision for 7 Trophy Ave.
5. Public meeting sign in sheet.

Approved March 26, 2018