



Office of
THE PLANNING BOARD

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RECEIVED
MAR 09 2022
TOWN OF TOWNSEND
TOWN CLERK

Lance J. McNally, Chairman
Carol Hoffses, Member

Michael Virostko, Clerk

Laura Shifrin, Vice Chair
Julie Byars, Member
Ian Ortiz Santiago, Assoc. Member

Meeting Minutes

Monday February 14, 2022, at 6:30 PM

VIRTUAL MEETING ONLY

VIA: ZOOM PER EXTENSION OF GOVERNOR'S ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G.L. c. 30A, § 20†

PUBLIC ACCESS ZOOM MEETING LINK: [Join Zoom Meeting](#)

<https://us02web.zoom.us/j/88952982886?pwd=UndYdk1UFp6WGZFVU45NCtRMFFNdz09>

Meeting ID: 889 5298 2886

Passcode: 490225

**All are invited to Attend - Materials and documents are available in electronic
format upon request by emailing bfaxon@townsendma.gov.**

1 PRELIMINARIES: votes may be taken.

- 1.1 Call the meeting to order and roll call. Julie Byars (JB), Member, Laura Shifrin, Vice Chair (LS), Michael Virostko (MV), Member, Lance McNally, Chair (LM), Ian Ortiz Santiago, Assoc. Member (IOS) Absent: Carol Hoffses. Others present: Hartley Pleshaw TCAM, Elizabeth Faxon, Planning Board Admin., Mike Crowley, LUC (left at 8:20pm), Adam Costa, Townsend Town Counsel (left at 8:20pm), Bill Cadogan (left at 8:23pm), Joan Savoy, Mark and Diane Cypher 187 North End Rd. Lot #1 Campbell Farm (left at 7:41pm), Dana Roberts (left at 7:40pm).
- 1.2 Chairman's additions or deletions. Chairman McNally stated that Ian Ortiz Santiago, Associate Member will be appointed as a voting Member for the meeting. LS asked about legal requirements of self-identifying individuals accessing the remote only meeting for the purposes of the public hearing record. Town counsel responded that there is no requirement in the law that Members of a public body be

† In accordance with actions related to an extension to the remote meeting provisions of the Governor's March 11, 2020, Executive Orders until April 1, 2022, this meeting will be held remotely.

aware of those who are present at a public hearing. He stated that individuals speaking at a public hearing need to identify themselves prior to participating.

- 1.3 Approval of minutes January 24, 2022. LS made a motion to accept the minutes as drafted for January 24, 2022. MV seconded the motion. A roll call vote was taken as follows: YES – JB, LS, MV, LM. The motion carried 4-0-0.

2 **APPOINTMENTS AND HEARINGS: votes may be taken.**

- 2.1 6:45 pm. **Public hearing** – Townsend Hill Realty Trust – request for a modification and/or waiver to a condition contained in the Planning Board “Decision” application for approval of Definitive plan “Campbell Farm” 187 & 199 North End Road dated Dec. 9, 2019. Identified as VI. B. 4. which states, “the applicant shall provide proof of recording of a conservation restriction on Parcel C prior to receiving occupancy permits”. Present: Dana Roberts, Trustee, Townsend Hill Realty Trust (THRT), Applicant.

The legal notice of public hearing was read. Mr. Roberts explained that the owners of Campbell Farm OSPD are requesting the Planning Board amend the condition of the Definitive subdivision and allow occupancy permit(s) to be issued on 3 Lots (lot 1, lot 2 and lot 5) that were sold to third parties unrelated to the Members of THRT. Mr. Roberts explained that THRT was not aware of the timeline and difficulty in meeting requirements of this condition (recording a Conservation Restriction) when Lots 1, 2 and 5 were sold to private parties and would not want the owners of these lots to experience unfortunate consequences of these circumstances. Admin read the mandatory referral comments into the record.

Comments were received from the Conservation Commission, the Zoning Board of Appeals, the Building Commissioner, Fire Department, Board of Selectman via Chair Veronica Kell individually. (To be ratified on BOS 2/15/22 agenda).

Chair McNally experienced technical difficulties at 16:20 and the meeting was held up briefly until he rejoined at 18:23. He then stated that the Town has received the subject Conservation Restriction (CR) for local signatures on Friday 2-11-2022. Mr. Roberts confirmed that he will be signing the CR. Chairman McNally commented that Town signatures required for the execution of the CR are on the Board of Selectmen’s agenda for 3-1-2022. He added that the CR appears to be positioned well to be approved. LS asked for clarification on who will be obligated on the CR in terms of the property owner and heard THRT and this obligation will run in perpetuity with the owner of the premises. The Townsend Conservation Commission is the holder of the CR granted by THRT and as such will have authority to enforce the restrictions and provisions agreed upon in the CR.

Chairman McNally noted that a condition of the definitive subdivision plan was that no certificates of occupancy would be issued by the Building Commissioner until the CR was recorded. He further clarified to the Members that the CR is on the definitive plan parcel D2 (27.9 acres) and parcel C (22.81 acres).

Town Counsel offered a few words briefing the Planning Board Members as to their decision in this matter. He noted that the question is whether they (individual Planning Board Members) wish to waive or eliminate the condition in their original definitive subdivision plan

approval and that condition has tied the timing of the recording of the CR to the issuance of certificates of occupancy.

Bill Cadogan, concerned citizen, made a comment that with the current circumstances of executing the CR in short order, it would not be necessary to change the conditions of approval.

Joan Savoy, concerned citizen, asked for a status update of the functionality of the fire pond. Chairman McNally was not able to confirm without a specific comment or report from the Fire Chief. Mr. Roberts commented that Jessica Consolvo, Conservation Agent did visit the site and confirmed work on the fire pond was completed from the Conservation Commissions point of view and Eric Chartrand has communicated that the work was completed according to the plan. Mr. Roberts was not sure whether the Fire Chief had inspected the functionality of the pond as a water source.

The Applicant stated that he would like the Planning Board to proceed with a vote. Town counsel then commented that the Planning Board may vote on the request to waive or modify the condition of the definitive subdivision, and that it is a definitive subdivision plan amendment which requires a simple majority vote to approve. He mentioned consideration of any possible cross-reference with the numerous other permits on the Campbell Farm OSPD project. It was confirmed that this application is specific to the condition of the definitive subdivision plan approval, and the hearing is appropriately noticed.

Chairman McNally confirmed with Town counsel that the vote taken will be a simple majority not a super majority. He then commented on the importance of the original approval requirement of THRT having the CR recorded prior to the Town issuing certificates of occupancy. He opined that this leverage is important for the Town. He indicated that he doesn't know if the Building Commissioner will issue certificates of occupancy based on the Decision of the Planning Board on this application.

LS made a motion to grant a waiver for the one lot in question of the property owners who may be displaced. She was unsure of wording of the motion and requested support from Town Counsel. She did not want this to be a precedent setting and expressed interest in upholding the original conditions agreed to by the Applicant and the Planning Board. The motion was not seconded and later withdrawn.

LS made a motion to grant the request for modification of a waiver to the condition contained in the Planning Board Decision application for approval of definitive plan Campbell Farm 187 and 199 North end Road dated 12-9-2019. JB seconded the motion. LS made an acceptance to the motion to amend the original motion to only issue an occupancy permit without a recorded CR for lot 5. JB seconded the amendment to the motion. Discussion following the vote: Chairman McNally commented that the Planning Board originally included this condition to ensure that the property retained by THRT remains undeveloped and is protected. He further commented that the condition was included to maintain leverage for the Town and by offering relief to the applicant, in part, the existing leverage to assure the CR is recorded will be diminished.

A roll call vote was taken as follows: YES – JB, IOS NO – MV, LS, LM. 2-3-0 The motion failed.

JB made a motion to close the public hearing. LS seconded. A roll call vote was taken as follows: YES – JB, LS, MV, IOS, LM. The motion carried 5-0-0. LS made a motion to authorize Chairman McNally to sign the Planning Board decision as noted for the Board. JB

seconded. A roll call vote was taken as follows: YES – JB, LS, MV, IOS, LM. the motion carried 5-0-0

Chairman McNally, having additional technical difficulties, left the meeting at 7:43pm with Laura Shifrin acting as Chair, and rejoined at 7:45pm.

- 2.2 7:30 pm. **Bill Cadogan**, Chairman Townsend Zoning Board of Appeals.
- Discussion of Townsend Zoning Bylaw amendment to business allowed in the residential district RA and RB by special permit. Mr. Cadogan shared a situation that is currently under review of the ZBA where an Applicant would like to open a dog grooming business in a residential district pursuant to a special permit granted by the ZBA. The use is not explicitly in the Town bylaw. Currently the uses that are allowed under this section are a kennel and veterinary hospital. The proposed change is to add **“dog grooming establishment”** to this section of the bylaw. Town Counsel reviewed the Town bylaw and confirmed that a bylaw amendment in this case is an appropriate course of action because when the bylaw is silent on a specific use, it is prohibited. LS asked if while this amendment is going to be proposed, is there other use(s) that would be allowable that should be included in this amendment? “Dog training establishment”, and “dog day care” were mentioned as possible additions to this list of allowable uses. LS asked if more discussion on exactly what will be added could take place with an additional discussion at the next meeting.

3 **WORKSESSION: votes may be taken.**

- 3.1 Review proposed zoning Bylaw amendments for placement on the ATM Warrant deadline March 1, 2022. Town counsel offered the following comments on the keeping of a small flock of fowl in residential district bylaw amendment when proposing amendments to agricultural, educational or religious uses the proponent must be mindful of protections available under the statute and in other provisions of law adopted locally but outside of zoning (zoning exemptions). On one hand under Ch. 40A sec. 3 provides for certain zoning exempt uses. The authority to regulate agricultural uses is limited at the local level due to the protection at the State level. for agriculture if the premises are 2 or more acres, and the minimum revenue threshold is met your commercial operation qualifies for an agricultural exemption. He added that there may be cases in Town where residents will claim this agricultural exemption for non-compliance with the bylaw. He noted that Townsend has a “right to farm” bylaw which also provides additional protection to residents, and businesses. Such a bylaw recognizes the protection of agricultural activities even outside of the zoning context. JB made a motion to move forward

- with the proposed amendment. MV seconded the motion. a roll call vote was taken as follows: YES – IOS, MV, JB, LM, LS. The motion carried 5-0-0.
- 3.2 Schedule public hearings for proposed zoning Bylaw amendments. The public hearings will be held on Monday, April 11, 2022, during the regularly scheduled Planning Board meeting.
 - 3.3 Townsend Housing Production Plan vote to approve. Chairman McNally commented that the Housing production plan was very well written, and he enjoyed reading it. LS made a motion that the Planning Board approve the 2022 – 2026 Housing production plan as presented by the Townend Housing authority. IOS seconded the motion. a roll call vote was taken as follows: YES – IOS, MV, JB, LM, LS. The motion carried 5-0-0.
 - 3.4 ZBA (Zoning Board of Appeals) Mandatory referral - 478 Main Street – application for special permit kennel. Not discussed.
 - 3.5 ZBA (Zoning Board of Appeals) mandatory referral – 241-247 Main Street - The applicants are proposing to convert a building into mixed-use by adding 4 two-bedroom apartments and two one-bedroom apartments to the 2nd and 3rd floor of the preexisting nonconforming commercial structure. Not discussed.
 - 3.6 Final approval process for the Townsend Master Plan 2021. Chairman McNally would like to have a second review with the Planning Board, as well as solicit a review and comments from each of the individual departments on the Plan. He will incorporate any changes. He suggested that all Members read the appendices, including the comments gathered from the community meetings, the economic development report, and the survey results. Chairman McNally will put together a project schedule for this work to bring to the next meeting and notes more work sessions will probably be necessary. Mr. Cadogan noted that the document has numerous grammatical errors and spelling errors, he offered to assist the Board in reviewing their work sessions. Chairman McNally will work on the grammar and editing of the document. Chairman McNally had additional technical difficulties (left the meeting from 8:20-8:25pm).
 - 3.7 Montachusett Regional Transportation Commission update – Unified Planning Work Program (UPWP) project request. Walkability report and Canal St./rt 119 intersection analysis. - Beth Faxon - The Townsend project proposal for the UPWP FY23 program year has been submitted to MRPC.
 - 3.8 Montachusett Regional Planning Commission update – Laurie Shifrin – none currently.
 - 3.9 Review town counsel comments re: §145-26 Residential District Bylaw DRAFT Amendment – §145-26 A (10) (a) Raising or keeping of fowl in residential districts. - This agenda item was taken up under section 3.1 of these minutes.
 - 3.10 Safe Routes to School (S.R.T.S) update. - Carol Hoffses. None.
 - 3.11 Townsend Municipal Vulnerability Preparedness & Hazard Mitigation Plan implementation. – Core Team Members and Staff. Noted.
 - 3.12 Annual Town Election Monday April 25, 2022. Nomination papers may still be obtained at the Town Clerks office and LS offered to assist anyone interested in running for Planning Board.

4 **CORRESPONDENCE: votes may be taken.**

- 4.1 Notices from Townsend/other Towns. Read aloud by Admin.
- 4.2 From Glenn Eaton, MRPC (MONTACHUSETT REGIONAL PLANNING COMMISSION) To: Townsend Planning Board RE: Call for proposals District Local Technical Assistance (DLTA). Round #1 deadline March 1, 2022. Round #2 deadline April 5, 2022. The Board reviewed an example of a letter that an adjacent Town (an MBTA community) submitted to MRPC to pursue the use of the DLTA program. Chairman McNally noted that the Town could issue a similar letter with a few minor modifications such as being located near a train station is not required and because Townsend is an adjacent community the densities are lower requirements. Lance McNally made a motion to ask Mike Crowley to draft a letter like the example DLTA project proposal letter Shirley has submitted with the appropriate revisions for Townsend to prepare for the Board of Selectmen. LS seconded the motion. A roll call vote was taken as follows: YES – IOS, MV, JB, LM, LS. The motion carried 5-0-0.
- 4.3 Memo: To Planning Board From: Zoning Board of Appeals RE: 2022 ATM Warrant article amendment to Townsend Zoning Bylaw 145-26 B (9). Residential A and B Districts Special permit uses. Noted and discussed under section 2.2.
- 5 ADJOURN: votes may be taken. JB made a motion to adjourn at 8:40pm. MV seconded. A roll call vote was taken as follows: YES – IOS, MV, JB, LM, LS. The motion carried 5-0-0.

5.1 Next Planning Board meetings scheduled for February 28, 2022.

Items on file:

- 1. Planning Board Application – modification to Decision approval of definitive subdivision Campbell Farm OSPD.
- 2. Proposed amendment to §145-26 Residential District Bylaw DRAFT Amendment – §145-26 A (10) (a) Raising or keeping of fowl in residential districts.
- 3. To Planning Board From: Zoning Board of Appeals RE: 2022 ATM Warrant article amendment to Townsend Zoning Bylaw 145-26 B (9). Residential A and B Districts Special permit uses.
- 4. Townsend Housing Production Plan 2022-2026.
- 5. Townsend Master Plan 2021 - for approval by the Planning Board
- 6. Townsend Municipal Vulnerability Preparedness & Hazard Mitigation Plan
- 7. Townsend project proposal for the UPWP FY23 letter.
- 8. Packet and letter from Glenn Eaton, MRPC (MONTACHUSETT REGIONAL PLANNING COMMISSION) To: Townsend Planning Board RE: Call for proposals District Local Technical Assistance (DLTA)
- 9. Example letter from MBTA community for DLTA call for proposals.

A recording of this meeting is published on the Town of Townsend YouTube channel at the following link: [2022-02-14 Planning Board](#)

Respectfully submitted,

Elizabeth Faxon, Planning Board Admin.

Approved on: February 28, 2022