



Office of  
**Zoning Board of Appeals**  
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TOWN OF TOWNSEND  
TOWN CLERK

William Cadogan, Chairman

David R. Chenelle, Clerk

Victoria Janicki, alternate member

Craig Stevens, Member

David Funairole, alternate member

Darlene Sodano, Vice Chair

Robert Rebholz, Member

Sean Pearson, alternate member

**Zoning Board of Appeals minutes**

Wednesday, July 17, 2019, at 7:00 PM

Townsend Memorial Hall

272 Main Street, Townsend, MA 01469

**1 Preliminaries:**

- 1.1 Call the meeting to order Chairman William (Bill) Cadogan called the meeting to order at 7:03P.M.
- 1.2 Roll call: Present were Chairman William Cadogan (BC), Vice Chairman Darlene Sodano (DS), Clerk David Chenelle (DC), member Robert Rebholz (RR), Associate members Victoria Janicki (VJ), and David Funairole (DF). Absent was Associate member Sean Pearson. Also present was Administrator Elizabeth Faxon.
- 1.3 Additions or Deletions to Agenda Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting: none.
- 1.4 Approval of Minutes, 5/15/19, 6/12/19 – DC moved to approve the minutes of 5/15/19 with the addition to section 3.1 “D. Funairole seconded. All in Favor. Mr. Rebholz accepted.” And section 3.2 “R. Rebholz seconded. All in favor”. DF seconded the motion. RR abstained. All in Favor.  
DS moved to approve the minutes of 6/12/19 with corrections. DC seconded the motion with all voting in favor.

**2 Hearings and appointments:**

**2.1 Continuation of Public hearing – 48 Fitchburg Road -**

DC moved to reconvene the public hearing for 48 Fitchburg Road. DS seconded the motion with all voting in favor. Chairman Cadogan appointed Associate members VJ and DF to full member status for voting. Present for the discussion were Mr. Ramadan, applicant. Chairman Cadogan stated that the application was duly posted and advertised for a variance under Section 145-66. Members of the Board asked questions about the ownership of the condominium complex, magnitude of the change in size of the building, landscape and exterior design and mediation, and financial plans for the reconstruction of the apartment building. Mr. Ramadan stated that he owns 94% of the condominium complex and has personally managed the condominium complex since 2009. The complex is approximately 20 acres and includes a solar array that supplies the complex with power. Chairman Cadogan stated that according to the proposed plan the footprint of the new building is 121% larger than the old building, more than a factor of 2. In terms of the setback from the road, the proposed building will be 76.2ft. Mr. Ramadan expressed his intent of providing a high quality building creating more tax revenue and less draw on services for the Town. The profitability of the project was discussed. The visual impact of the proposed building

was discussed and Board members commented that due to the current style of existing apartment buildings, the new building would be unique.

Chairman Cadogan discussed the proposed project with respect to the site plan review criteria. Parking spaces proposed are adequate. The project will use the same access as existing. The Landscaping plan was reviewed by the Board specifying the location and species of plantings around the proposed building.

Mr. Ramadan stated that once the building footprint is acceptable, then he will hire a professional engineer to conduct hydrological studies and create a Stormwater and drainage report. A question was raised as to the adequacy of turning radius and access for emergency vehicles in the proposed parking area, even if there are vehicles parked in an emergency.

Mr. Ramadan stated that he designed a 24' width around the proposed building so that emergency vehicles can access the building from all sides. The peak height of the existing building vs. the peak height of the proposed building remained unclear at the time of the public hearing. Estimated height of the burned building was 44' and an estimated increase of 10' for the proposed building at 54'.

The Board considered the project with regards to the Variance criteria section 145-66.

The property is located RA3 Zoning district. There are no other equivalent structures in the residential district. Discussion ensued as to the evidence for a variance for this proposal under the bylaw. A.1. the property is atypical of the town and surrounding areas. The structure is unique to the RA district and is a pre-existing nonconforming use. The substantial hardship was noted to be the inability to recover financially from the fire. Because this structure is a pre-existing non-conforming structure, building a replacement structure to meet "as built conditions" would not be possible. Board members clarified that this scenario is based on the "Structure" topic of paragraph §145-66 A.1. DS noted the three options; 1.) rebuild in the original footprint, 2.) Rebuild according to current building code, and 3.) Enlarge the replacement structure as proposed.

Findings: A.2. Detriment to the public good. None noted. The increase in size of the replacement building will be noticeable to the general public but will not create a substantial detriment to the public good.

Section A.C. The ZBA can formulate conditions on the project and the Variance is transferred with the land.

Section A.D. The applicant has one year to exercise the right or the variance will lapse.

D. C. Motioned that the proposed project is not substantially detrimental to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

V. J. Seconded. Roll Call vote: YES-D. Funaiolo, V. Janicki, B. Cadogan, D. Chenelle. NO-D. Sodano. The motion carried.

V. J. moved that we find owing to the circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the petitioner or appellant. D. C seconded. Roll call vote: YES-D. Funaiolo, V. Janicki, D. Chenelle, B. Cadogan. NO-D. Sodano. The motion carried.

The Board then considered the project under the criteria for a special permit site plan review as defined in section 145-65. The Board reviewed a drawing titled: Planting Plan DWG. No. L.1 Dated 6/27/19. Signed by Dennis J. Dale, registered landscape architect. The Board found that Drainage calculations and a Stormwater management system design must be provided as well as a vegetative screening plan to conceal the solar array. D. Chenelle marked and signed the plan where additional plantings will occur to shield the solar array from the site.

- 145-65 F. (1)
- (a) the site is 19.89 Acres and of adequate size for the proposed use.
  - (b) The site is in the Residential Zone and is suitable for the proposed use.
  - (c) There will be no impact on traffic flow and safety.
  - (d) There will be no impact on neighborhood visual character, including views and vistas.
  - (e) There will be no change in sewage disposal. Surface water runoff and drainage will change. Chair Cadogan noted that the applicant must provide a hydrology report and a peer review will be conducted before approval.
  - (f) Adequacy of utilities and other public services are appropriate.
  - (g) Applicant will provide surface runoff hydrology report and site work plan for Stormwater management.

D. Sodano moved that that proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. D. Funairole seconded. Roll Call Vote: YES- D. Funairole, V. Janicki, D. Chenelle, B. Cadogan. NO-D. Sodano. The motion carried.

The applicant wrote a letter granting an extension of time to the Townsend Zoning Board of Appeals for the Decision as necessary to receive and approve the additional information requested.

Specifically requested are the drainage calculations for the building and the parking lot Stormwater runoff to be provided by a licensed professional engineer.

The Board discussed the conditions of the special permit and agreed on as follows:

1. Per the provided landscape plan, a vegetative border be constructed as indicated on the plan along a line from point A to point B, bordering the solar array.
2. Bury existing retention pond.
3. Remove existing pool.
4. Pending the approval of a surface water drainage study and pre and post Stormwater calculations.
5. The Certificate of occupancy is conditional upon the completion of the plantings.

The Board considered the project with respect to Section 145-18.

D. Chenelle moved the rebuilding, change, extension or alteration of the proposed project shall not be more detrimental than the existing nonconforming use to the neighborhood. D. Funairole seconded. Roll call vote: YES- D. Funairole, V. Janicki, D. Chenelle, W. Cadogan. NO-D. Sodano. The motion carried.



Mr. Ramadan submitted a written waiver of the time for the issuance of a decision.

D. Chenelle motioned to close the public hearing subject to reopening as needed. D. Funaiolo seconded. All in favor. The motion carried.

D. Chenelle motioned authorize the ZBA administrator to contract a consulting professional engineering firm for technical peer review services of the Stormwater runoff calculations and report upon receipt. V. Janicki seconded. All in favor. The motion carried.

D. Sodano moved to continue generally until the drainage calculations are received. D. Chenelle seconded. All in Favor. The motion carried.

### **3 Worksession:**

3.1 Refer bylaws applicable to elderly housing to the Planning Board and status update.  
Tabled

3.2 ~~Review Decisions/special permits issued for NMRHS re: lighting.~~

3.3 Zoning Board of Appeals member vacancy. The vacancy was duly posted and the ten day wait period has expired.

3.4 Letter of interest Victoria Janicki re: full member Zoning Board of Appeals vacancy.

D. Chenelle moved to recommend Victoria Janicki as a full member of the Zoning Board of Appeals pending appointment by the Board of Selectmen. D. Sodano seconded. All in Favor. The motion carried.

D. Chenelle moved to recommend Craig Stevens as an associate member of the Zoning Board of Appeals pending appointment by the Board of Selectmen. D. Sodano seconded. All in Favor. The motion carried.

### **4 Correspondence:**

4.1 Letter of Complaint to: Richard Hanks, From Joan Savoy and Bill Cadogan Dated: 5/30/19. Noted.

4.2 Letter to: Zoning Board of Appeals administrator from Ziad Ramadan re: supplemental material to the public hearing of 48 Fitchburg Road. Noted.

Respectfully submitted,

**Approved on: 10/30/19**

Elizabeth Faxon

Zoning Board of Appeals Administrator

#### Items on file:

1. Public hearing sign in sheet.
2. 48 Fitchburg Road Planting Plan Dale Design, Inc. DWG. No. L.1. dated 6/27/19. Signed by Dennis J. Dale, Registered Landscape Architect. No. 910.
3. Letter to Townsend Board of Appeals from Mr. Ziad Ramadan granting extension of statutory timeline for Decisions.
4. Letter of Complaint to: Richard Hanks, From Joan Savoy and Bill Cadogan Dated: 5/30/19.
5. Letter to: Zoning Board of Appeals administrator from Ziad Ramadan re: supplemental material to the public hearing of 48 Fitchburg Road.
6. Letter of interest Victoria Janicki re: full member Zoning Board of Appeals vacancy
7. Email from Craig Stevens re: interest in Associate member Zoning Board of Appeals.