



Office of
THE PLANNING BOARD
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 JAN 19 2021
 TOWN OF TOWNSEND
 TOWN CLERK

Lance J. McNally, Chairman
 Carol Hoffses, Associate Member

Charles Sexton-Diranian, Clerk

Laura Shifrin, Vice Chair
 Jerrilyn T. Bozicas, Member

Planning Board Meeting Minutes
 Monday, December 21, 2020, at 6:30 PM
 MEETING REMOTELY

VIA: ZOOM PER 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/83978431772?pwd=dmJ3Nm1TWJraWRScjJHbXQ4VTVjdz09>

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One tap mobile

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1 PRELIMINARIES: votes may be taken.

- 1.1 Call the meeting to order and roll call. Chairman Lance McNally called the meeting to order at 6:32 PM. Members present: Lance McNally, Chair Laura Shifrin (left the meeting at 7:05 PM), Vice Chair, Charles Sexton-Diranian, Clerk, Jerrilyn Bozicas, Carol Hoffses., Associate Member Chairman McNally appointed Carol Hoffses as full voting member for the meeting.
 Others present: Bill Cadogan, John Hume, MRPC, Christopher McDermott, MRPC, Veronica Kell, Adam Costa, Town Counsel (left the meeting at 8:00 PM), Elizabeth Faxon, Planning Board administrator Hartley Pleshaw, TCAM., Kevin Smith.
- 1.2 Chairman's additions or deletions. None noted.
- 1.3 Approval of minutes 11-30-2020*, 12-07-2020. J. Bozicas made a motion to approve the minutes of the 11-30-2020 meeting. C. Sexton-Diranian seconded. YES – C. Sexton-Diranian, L. Shifrin, J. Bozicas, C. Hoffses, L. McNally. The motion carried 5-0.

2 WORKSESSION, in part: votes may be taken.

- 2.1 Townsend's draft age restricted housing development zoning bylaw.* The public hearing is scheduled for 6:45 PM on December 21, 2021. The draft proposal has been reviewed by town counsel and a

† Per the Governor's Order, and during the State of Emergency now-in-effect or until sooner rescinded, public bodies are relieved from the requirement that they conduct their meetings in a public place that is open and physically accessible to the public; provided, however, that all public bodies shall ensure public access to deliberations through adequate, alternative means, which include (but are not limited to) telephone, internet or satellite enabled audio or video conferencing or other technology that enables the public to clearly follow the proceedings of the public body while they are occurring. The Order also allows remote participation by all members of a public body; and waives the requirements that a quorum and the chair be physically present at the meeting location.

copy was provided to Board Members. C. Sexton-Diranian stated that he would provide background information at the beginning of the public hearing.

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

3.1 6:45 PM – Public Hearing - Age Restricted Development Zoning Bylaw proposal. Chairman McNally opened the public hearing by reading the legal notice. C. Sexton-Diranian updated those present with the rational and history of the formation of the draft age restricted development zoning amendment Bylaw proposal process. He noted that survey results indicated citizens are in favor of zoning changes that promote more housing opportunities. The Planning board received a DLTA grant administered by MRPC staff to formulate this age restricted housing development bylaw proposal. Mandatory referrals received from Karin Moore were read into the record. Town counsel reviewed the bylaw and provided numerous detailed comments. The pdf document redlined by town counsel was shared on screen and town counsel explained his findings and markups. Town counsel addressed the form and the substance of the document. In terms of form, he recommended changing the numbering and clarification of the by right impression of cottages and townhouses that is implied by the introduction. David Chenelle also submitted comments and suggested putting the definitions between Sections A. and B. Town counsel recommended consolidating all definitions in the definition section of the Code. Some of the terms, he noted, are already present in the Townsend Bylaw. He recommended looking elsewhere in the bylaw to be sure the meaning of the terms used are consistent with their use otherwise in the Code of Townsend, specifically, “single family” and “two family”. He further cautioned that when drafting an age restricted zoning bylaw that certain protected rights under the discrimination laws are observed. Whenever you zone by restricting housing especially for age, which is a protected class at the State and Federal level, you must also consider that another protected class is families or familial status, and by restricting development to 55 plus you are limiting access to families with children, that could be conflicting with state and federal legislation. Town counsel made a comment about the Applicability section, the applicable federal legislation here is the housing for older persons act (HOPA) and the state legislation is the Massachusetts anti-discrimination MGL c. 151B. These are the acts that prohibit limiting access by age and familial status, there are exemptions, he noted to allow for specific housing, but they are narrowly tailored so when the bylaw is written it must be able to be used, in a manner that does not result in unlawful discrimination. He noted that exemptions exist for federally aided housing for the elderly. He provided an example of an exemption being a state or federally aided senior housing project, or a project utilizing low-income housing tax credits. He noted one of the exemptions included a minimum of 5-acre lot size for development, and in the draft Bylaw being reviewed, development is allowed on 2-acre parcels. To avoid any conflict with anti-discriminatory legislation and without federally aid, a developer would need a minimum of 5 acres to not be deemed discriminatory under State and Federal law. He suggested the Board consider whether to keep the 2-acre standard. He provided comment on the question of enforcement of the age restriction component by explaining if it is not an obligatory development if the objective is to create housing that that accommodates an older population in terms of how that housing is designed with focus on accessibility for older populations but not requiring that it be restricted, you then do not run afoul of federal or state legislation. Bill Cadogan asked about allowing development on one acre lots and septic system requirements. K. Smith commented that 5-acre parcels in the downtown area do not exist. He noted that preference is to find parcels for elderly development that is in the downtown within walking distance to the churches, shops, and rail trail. C. Sexton-Diranian asked if a townhouse were constructed on a two-acre lot with two separate units and one was affordable, would that fit into the exemption noted by town counsel. Town counsel replied that inclusion of affordability is complicative because DHCD which is involved in affordable housing in MA has been very vocal about discriminatory effect and impact about any sort of restriction, i.e., age or familial status or other. Town counsel stated this example would not allow for avoidance of a mandatory 5-acre minimum. B. Cadogan cautioned against state affordability programs promoting native affordability. He noted his experience with 40B program and that an affordable house is lost each year because they are not attractive to buyers. Chairman McNally asked Town counsel what recommendations he has to amend the draft to keep the parcel size at 2 acres. Town counsel replied that the Board will have to make decisions about obligating an applicant and permittee to restrict its development to those of a certain age and if affirmative then consistency with state and federal law must be ensured, and more specifics need to be provided about the different scenarios that occur such as the passing of the 55 plus individual, and the rights of the remaining residents under the age of 55. He surmised that there is a lot to be discussed if the age restriction will be obligatory. If the age restriction is not going to be obligatory but, instead, recommended, and the bylaw is structured in such a way that the housing that is built will be age-restricted by choice or age restricted by that is who it will appeal to, based on the nature of the development, this provides for greater flexibility and less of concern with inconsistencies within the bylaw and state and federal law because it's not an obligatory condition. He proceeded to Section C. Uses. He recommended the zoning districts where

the development will be allowed to occur should be in the Applicability section subsection B. He recommends consistency in the housing types mentioned in the bylaw and the densities provided. Noted that the setbacks are unclear. The types of dwellings must be clearly defined. The maximum density can be determined beginning with the maximum building coverage of 35% of the lot area, minimum setbacks are then established from property lines in the RA and RB districts, all these standards are applied in conjunction with one another. Town counsel recommended careful consideration of all the design standards to ensure practical project buildability. B Cadogan noted that since it is a special permit, that setbacks will not be a major concern because the special permit can be denied if the criteria are not met in the proposal. Chairman McNally thanked town counsel for his review and noted that fundamental considerations in the next revision of the draft age-restricted development bylaw proposal must be addressed. C. Sexton Diranian noted it would be prudent to have Members rework the draft bylaw and Board members agreed. Town counsel noted that age restricted bylaws are some of the more complex bylaws that are adopted as part of a municipality zoning problem because of the implications. Discussion ensued as to the model bylaw that this draft was based on. C. McDermott spoke and confirmed that Littleton was the model on which this draft was based. **C. Sexton-Diranian made a motion to continue the public hearing to January 11, at 8:00 PM. J. Bozicas seconded. YES – C. Sexton-Diranian, J. Bozicas, C. Hoffses, and L. McNally. The motion carried 4-0.**

3.2 7:30 PM – continuance of public hearing – application for renewal of a cell tower site plan review special permit.*

Applicant: SBA Towers V, LLC.

Location: 12 Ball Road. Map#45 Block #2 Lot #0.

Project: application for renewal of a special permit for an existing cell tower located at 12 Ball Road.

Chairman McNally opened the continued public hearing for 12 Ball Road cell tower site plan review special permit renewal.

Present: Gregory Boucher for the Applicant.

Chairman McNally noted that a draft Decision has been reviewed and terms have been agreed upon for the Townsend Fire Department to potentially put some communications equipment on the tower. Mr. Boucher stated that he was able to confirm with Chief Boynton the terms and wording in the draft decision are acceptable. **C. Sexton-Diranian made a motion to approve the Decision for 12 Ball Road cell tower and grant the special permit renewal. J. Bozicas seconded. YES – C. Sexton-Diranian, J. Bozicas, C. Hoffses, and L. McNally. The motion carried 4-0.**

4 WORKSESSION, cont'd: votes may be taken.

4.1 Townsend Master plan committee update.* - C. Sexton Diranian commented that the last meeting the Committee was reviewing the draft Water Chapter. V. Kell submitted a draft Open Space chapter which the Members will review out of session. The Administrator noted that because the broadcast system cannot hold two meetings simultaneously, the meeting for the Master Plan Committee had to be cancelled. The next meeting is scheduled for January 5, 2021.

4.2 Draft proposal Scenic Roads Regulations.* Chairman McNally found the following section of the bylaw may need clarification “a portion of stone wall must be removed for access to the property the remaining stone wall the remaining stone wall will be left in a stable and orderly fashion removing stone walls located along scenic roads within the towns right of way is subject to filing an application within the planning board pursuant to MA scenic roads Act. All roads in Townsend other than numbered roads or state highways are designated as scenic roads”. He noted that an application is only required when a driveway that bisects a stonewall is proposed. It does not apply to modification of protected stone walls. Upon reviewing abutting towns, he surmised that Ashby had the most detailed article. He constructed a draft scenic roads bylaw proposal using Ashby’s bylaw as a model. He notes the Town right of way is 20’ from the centerline of the roadway. V. Kell commented that she is in favor of the proposal with more discussion on the definition of the Town’s right of way. Her concern is the stone walls that run parallel along scenic roads are outside of the Towns’ right of way.

She also asked for consideration of whether the stone wall has a drill hole for surveying reference points. If the stone wall was removed that reference point would be lost. She asserts that the right of way doesn't need to be a consideration but rather the stone walls that run parallel along scenic roads should be jurisdictional under the bylaw. Chairman McNally stated there should be a distance determined. C. Sexton Diranian expressed concern with regulating private property and infringing on property owners' rights. The Board reviewed the State law. Chairman McNally asked Board members to determine what their position is on setting the boundary of jurisdiction for the draft scenic roads bylaw proposal so it may be adjusted accordingly. Chairman McNally will ask Town Counsel an appropriate way to delineate this boundary. C. Hoffses agreed and commented that she is in favor of establishing a definite boundary. J. Bozicas also agreed and would like to discuss further with consideration of property owners' rights.

- 4.3 DLTA MRPC Townsend Chapter 43D feasibility grant. * - the priority development sites have been mapped and identified. MRPC has provided some information regarding the process of education and engagement of property owners for these sites in order to include them in the application to the State. A few outstanding items are completing the application, drafting the warrant article to adopt the CH. 43D. Administrator will meet with town counsel to discuss the implementation of the Chapter 43D program administratively. L. Shifrin noted that she was charged with communicating with the owners of the PDS sites. She received information from J. Hume that needs to be reviewed. One of the owners has received this information. L. Shifrin is waiting for further instructions on how to proceed with PDS owners.
- 4.4 Safe routes to school update. – Charles Sexton-Diranian* - updated that a meeting had occurred with a State representative from the program. Background information, next steps, and helpful links to online resources were discussed. The group is waiting to hear from a NMRSD representative to receive support of the schools to move ahead with participating in the SRTS program. Support has been received from the police department.
- 4.5 Montachusett Regional Planning Commission – Unified Planning Work Program grant - Townsend Walkability study. Sheri Bean, MRPC has provided a map of Townsend points of interest and an example of a study area to begin the process for establishing Townsend's study area. The maps were discussed. It was noted that some of the businesses were no longer operating, more points of interest could be added to help define the study area such as Black Rock, Town forest paths, and scenic vistas. B. Cadogan will provide a list to help. It was suggested that Ray Jackson be contacted, and management and open space areas be added to the points of interest map. V. Kell noted that when the grant was originally sought the thought was primarily businesses and walkability to the Rail Trail and downtown areas. She thought it would be prudent to look into where ADA access could be provided for trails i.e., Old Meeting House park or Howie park.
- 4.6 Montachusett Joint Transportation Commission – Grant opportunities update. – Administrator shared the funding opportunities announced at the MJTC meeting and informed Board members that a request has been made for the Planning Board to schedule a joint public meeting with other Town Boards and Committees on January 7, 2021, to discuss the grants. Administrator will organize the meeting and V. Kell will prepare a presentation and talk for the meeting. Board members requested representative from the schools be invited as well as historical commission.

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

- 5.1 Notices from Townsend/other towns.* read aloud by C. Sexton-Diranian
- 5.2 Board of Selectmen notice: Planning Board appointment to the Capital Planning Committee. J. Bozicas made a motion to appoint C. Sexton-Diranian as Planning Board representative to the Capital Planning Committee. C. Hoffses seconded. YES – C. Sexton-Diranian, J. Bozicas, C. Hoffses, L. McNally. The motion carried 4-0.

6 **SCHEDULE AND ADJOURN:** votes may be taken.

- 6.1 Next Planning Board meeting scheduled on January 11, 2021. C. Sexton-Diranian made a motion to adjourn at 8:25 PM. J. Bozicas seconded. YES – C. Sexton-Diranian, J. Bozicas, C. Hoffses, Lance McNally. The motion carried 4-0.

Respectfully submitted,
Elizabeth Faxon,
Planning Board administrator

Approved on: January 11, 2021

* Items denoted with an asterisk were included, in whole or in part, on the Board's December 7, 2020 meeting agenda. Due to difficulties with remote access, some members of the public may have been unable to gain access to and/or participate in that meeting. Accordingly, these items are included on the agenda above and will be discussed again at the December 21, 2020 meeting.

Items on file:

1. Draft scenic roads bylaw proposal.
2. Draft age restricted development zoning amendment bylaw proposal.
3. Draft age restricted development zoning amendment bylaw proposal with town counsel comments and markups.
4. Draft Decision 12 Ball Road cell Tower site plan review special permit renewal.
5. Grants & funding opportunities worksheet.
6. Townsend points of interest map.
7. Reference documentation for Massachusetts 43D local expedited permitting program.
8. Maps of selected priority development sites in Townsend for the Ch. 43D state application.

Join Zoom Meeting

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