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Office of  
**The Zoning Board of Appeals**  
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Townsend, Massachusetts 01469  
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William Cadogan, Chairman  
Sean Pearson, Member

David Chenelle, Clerk  
Vicky Janicki, Member

Darlene Sodano, Vice Chair  
David Funaiole, Assoc. Member

## ZONING BOARD OF APPEALS MINUTES

Wednesday, March 22, 2023 at 7:00 pm

remote access **ONLY**  
via Zoom

### 1 **PRELIMINARIES:** votes may be taken.

- 1.1 Call the meeting to order and roll call. Board member present: Darlene Sodano, Vicky Janicki, David Funaiole, Bill Cadogan, David Chenelle (recused ZBA Board member, rejoined the meeting at 7:10pm after the public hearing was closed) Board members absent were Sean Pearson. Other present: Elizabeth Faxon, ZBA Admin. Asst.
- 1.2 Chairman's additions or deletions. None.
- 1.3 Approval of Zoning Board of Appeals meeting minutes 11-2-2022, 2-15-2023. D. Sodano moved to approve the amended minutes of November 2, 2022, and the minutes of February 15, 2023. V. Janicki seconded the motion. A Roll call vote was taken as follows: YES – D. Sodano, D. Funaiole, V. Janicki, B. Cadogan. The motion carried.

### 2 **PUBLIC HEARINGS:** votes may be taken.

- 2.1 **7:00 p.m. – continuation of public hearing** on the application of **John Hussey and Darlene Hussey** for an administrative **Appeal** under Zoning Bylaw §145-64. The applicant is appealing the Building Commissioner's letter dated December 13, 2022, concerning the Building Commissioners decision to deny a Certificate of Occupancy for a single-family home located at 37 Burgess Rd. Present (remote): Jamie, Anna Roberts, Jonathan Silverstien, Ed Howard, Stephen Marshall, Jay Talerman, Paul Morin, David Chenelle (abstained Member, attending as an abutter)

Darlene Sodano moved to reconvene the continuation of the public hearing; David Funaiole seconded. A Roll call vote was taken as follows: YES – D. Sodano, D. Funaiole, V. Janicki, B. Cadogan. The motion carried.

Chair Cadogan acknowledged receipt of supplemental submissions and stated that the Board would not be reviewing them in this session of the hearing. He further stated that the request from the Applicant is to overturn the Building Commissioners determination. He further noted that the Board attended a site visit between the first and second session of public hearings and witnessed a demonstration that conclusively illustrated that the present area referred to as a turnaround is not adequate for fire apparatus to turn around. The Board entered a video recording of this demonstration into the record, and it is available for public review. Board member D. Funaiole commented on the Memorandum dated 9/2016, from the Fire Chief wherein Chief Boynton describes the required dimensions for a turnaround at the end of Burgess Road that meets the standards for public safety. He further read from that memo the subject area is described as a 50 foot long by 25-foot-wide area beside the road. D. Funaiole noted that is not what exists on the property. Board member D. Sodano contended that she did not consider the memo to the Planning Board from the Highway superintendent dated August 9, 2017, as being a definitive approval of the as-built conditions of a turnaround at the property.

D. Funaiole agreed that the contents of the memo from the Highway Superintendent was not an approval that the existing conditions on the property met the turnaround criteria that were set forth by the Fire Chief. D. Sodano noted that in the Planning Board minutes dated Nov. 7, 2016, that the Planning Board was clear as to the expectations and the requirements to be met to consider the Property as a buildable lot. She further commented that when the Building Commissioner met with the Planning Board on 12-12-2022, the Planning Board Members agreed that a proper turnaround built to the specifications in the Code should be constructed at the Property. She concluded that what was built at the property is not what the property owner was compelled to do based on the documentation submitted to the Board. Board Member V. Janicki said there was no clear determination of the turnaround construction and until clarity is provided, she supports upholding the Building Commissioners determination letter.

D. Sodano made a motion to uphold the Building Commissioners letter dated 12-13-2022. V. Janicki seconded the motion. A roll call vote was taken as follows: YES – V. Janicki, D. Funaiole, D. Sodano, B. Cadogan. The motion carried.

D. Sodano made a motion that Bill Cadogan, the Chair signs the Decision on behalf of the Board members that participated in the vote. D. Funaiole seconded. A. Roll call vote was taken as follows: YES – V. Janicki, D. Funaiole, D. Sodano, B. Cadogan. The motion carried.

### **3 CORRESPONDENCE: votes may be taken.**

- 3.1 Planning Board second mandatory referral – 22 Main Street site plan review special permit application. The Board agreed to have the admin submit the following comment to the Planning Board “In consideration of public safety, the ZBA recommends establishing a sidewalk parallel to Rt. 119, connecting existing sections of sidewalk on either side of this property.”
- 3.2 Planning Board Decisions transmittal – 5 Turnpike Road site plan review special permit and major stormwater management permit, 25 Harbor Trace Road major

stormwater management permit. The Board acknowledged receipt of the Planning Board Decisions.

- 3.3 Building Commissioners letter dated March 6, 2023 – re: conveyance of land as a condition of the Definitive subdivision Plan for Coppersmith Way. The Board discussed the contents of the determination letter written by the Building Commissioner to the development's current owner. This letter is about the developer's requirement to transfer the designated open space in the Coppersmith way 40B comprehensive permit. In the letter it states the conveyance should be to the "Townsend Land Trust or the Town" so the Town may accept it and send it to a substitute Land Trust (since the Townsend Land Trust is dissolved). The condition referenced in the letter also states the open space parcel may be conveyed to the Townsend Land Trust or "the owner of the property at 101 Highland Street". Board members seated at the time of the decision agreed that conveying the parcel to the owner of Highland Street was not the primary intent of the permit's condition. The Board asked for a response letter to be written to the Building Commissioner reflecting this sentiment and for Chair Cadogan to edit and sign it. Land trust was part of the decision and since it is merged into another entity, the ZBA prefers to have the parcel conveyed to another Land trust. D. Chenelle made a motion that the ZBA draft a letter and give the authority to the Chair to edit and sign at his discretion. D. Funaiole seconded. A Roll call vote was taken as follows: YES – V. Janicki, D. Funaiole, D. Sodano, B. Cadogan. The motion carried.
- 3.4 ZBA Decision transmittal – 5 Ryan Road special permit accessory apartment. The Board noted receipt.
- 3.5 Annual Town Election Monday, April 24, 2023, and Annual Town meeting Tuesday, May 2, 2023. Noted.

D. Funaiole motioned to adjourn the meeting at 8:30pm. V Janicki seconded. A Roll call vote was taken as follows: YES – V. Janicki, D. Funaiole, D. Sodano, B. Cadogan. The motion carried.

Respectfully submitted,

**Approved on:** April 12, 2023

Elizabeth Faxon, Zoning Board of Appeals Admin. Asst.

Items on file:

1. 37 Burgess Road submissions: Abutter, Planning Board discontinued Road documents. Applicant, Supplemental submission. Letter from Applicant's attorney in support of Appeal. Applicant, supplemental submission Letter from applicant's attorney in support of appeal. Town, memorandum to Townsend Planning Board from Mark R. Boynton, Fire-EMA Chief, Town, Email from Eric Chartrand to Bill Cadogan, Beth Faxon, et. all. In opposition to the Appeal. Town, measurements of existing conditions taken at ZBA site walk, Town, Planning Board agendas and minutes of 10-17-2016 & 11-7-2016 meetings. Town, Photograph from ZBA site visit. Town, Video of FD engine#1

attempting to maneuver at ZBA site visit. Town, Planning Board 12-12-2023 meeting minutes.

2. Building Commissioners letter to Ken Chaplin dated 3-6-2023 re: conveyance of land as a condition of the Definitive subdivision plan for Coppersmith way.
3. Planning Board second mandatory referral with supplemental submissions 22 Main Street site plan review special permit.
4. Planning Board decisions for 25 Harbor Trace and 5 Turnpike Road.
5. ZBA decisions for 5 Ryan Road.