

Background Materials for March 23, 2015

Agenda Items #1 through #11

Agenda Item #1 – Minutes

I have distributed draft copies of the following minutes for your consideration:

- 1). April 28, 2014 Planning Board Meeting
- 2). April 28, 2014 Public Hearing - Zoning Bylaw amendments
- 3). April 28, 2014 Public Hearing - Subdivision Regulations amendment
- 4). February 10, 2015 Planning Board Meeting
- 5). March 09, 2015 Public Hearing – SPR for Adam Sweet Home Occupation II

ACTION NEEDED: Review, edit and approve the minutes.

Agenda Item #2 – Bills and Correspondence

A list of the bills and correspondence are attached – at this time we do not have any new bills.

Public Hearing: Site Plan Review for Home Occupation II – Scott Slapin and Tanya Solomon Music Lessons

6:45 p.m.

Scott Slapin and Tanya Solomon have submitted an application for Site Plan Review for a Home Occupation II use – teach music lessons – in their home at 37 Mountain Avenue. The site is a

15,625 square foot lot situated on the northside of Mountain Avenue. Currently, the property is zoned Residence A-2. (See aerial photo and map to the left and below).



The applicants have owned and resided in the residence for nearly 3 years. In their application, they indicate they have 6 students interested in having lessons at their home. It is their desire to grow their business to have up to 15 students. They only teach violin and viola – none of the larger or louder instruments. Lessons are scheduled to occur between 9:00 a.m. and 8:00 p.m. with at least 15 minutes between sessions. No group lessons are provided; therefore, there will never be more than one client vehicle in the driveway at a time. The applicants

indicated they have sufficient space in their driveway to accommodate their student/parents vehicles under the scheduling policies they use.

I inquired as to the signage proposed. They provided a photo of a one foot by one foot decal they have on their window – the totality of their signage.

A copy of the application submittal (including their sign decal) has been posted on the Town's website – the Planning Board page at the following link:

<http://ma-southhadley.civicplus.com/DocumentCenter/Home/View/1347>

Departmental Comments

Upon submittal of the application, a request for comments was sent to various departments. As of March 17, 2015, comments/responses were received from all of the solicited departments with DPW Superintendent, Water Superintendent for Fire District #1, Fire Department for District #1, SHELD Manager, Police Chief, Public Health Director, and Conservation Commissioner Administrator indicating that they had no objections or comments. Building Commissioner Charlene Baiardi stated that she has concerns - mainly about complying with the ADA, 521 CMR Codes. Ms. Baiardi added that she was attending a workshop and would present the issues to the Deputy General Counsel for the Dept. of Public safety and the Director of the Architectural Access Board and provide an update.

In a discussion on March 18, 2015, Building Commissioner Baiardi stated that the Access Board requirements would only apply where the amount of improvements being undertaken total \$100,000 or more or amount to 30% or more of the value of the structure. Since no improvements are being proposed for this residence, it would appear that the Access Board requirements would not apply. As an aside, it is hard to envision any Home Occupation situation which would meet the thresholds for compliance with the Access Board requirements.

Home Occupation II Standards

Section 7(A)3 requires all Home Occupations, regardless of their type or category shall conform to the following criteria and standards:

- a) The home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units and does not alter the character of the neighborhood.
- b) More than one home occupation may be conducted on a lot, provided that the combined impact of all home occupations satisfies the criteria and standards enumerated for the appropriate level of home occupation.
- c) The home occupation is conducted only by residents of the dwelling unit but the business may employ other workers who do not engage in the work of the business at the site of the home occupation.

Section 7(A)5 provides the following requirements for a Home Occupation II:

A Home Occupation is allowed subject to site plan review (conducted in accordance with Section 12 of the Zoning Bylaw including, but not limited to, the conducting of the public

hearing with prior notification of the certified abutters as provided in Section 12(D)) if it is carried out in compliance with the following criteria and standards:

- a) Conforms to the General Criteria and Standards applicable to all Home Occupations as provided in 7(A)3 above.
- b) The home occupation may be conducted only by residents of the dwelling unit.
- c) The maximum area that may be occupied by the home occupation shall be the lesser of 20% of the floor area of the primary dwelling unit or 500 square feet.
- d) The home occupation shall not give the outward appearance of a business (signage, conducting of the business in accordance with these standards and criteria, and the incidental appearance of a vehicle allowed under Section 8(G)6 of the Zoning Bylaw to be parked in a residential district with the owner's business name, etc. on said vehicle shall not be construed as giving the outward appearance of a business).
- e) Signs used in conjunction with a home occupation shall not be animated or illuminated and shall not exceed one square foot and must be affixed to the residence and not be free-standing. The Planning Board may approve a small (up to 0.25 square feet) name plate to be affixed to a free-standing mailbox structure as a condition of the Site Plan Review.
- f) Parking shall be adequate for customers or clients.
- g) No commercial vehicle other than Class 1 Commercial Vehicles, as defined by the Massachusetts Department of Transportation, at the DOT website (<http://www.massdot.state.ma.us/highway/TrafficTravelResources/VehicleClassTypeClassifications.aspx>) may be parked on a property in connection with a home occupation.
- h) Automobile and truck traffic generated shall not be greater than the volume of traffic that would normally be generated by a residential use. As such, considering the property size, location, type of business, the Planning Board may establish maximum limits as to the number of client/customer visits which may be conducted during a set period of time as a condition of the Site Plan Review. The applicant must, as part of their application, provide information as to the volume of vehicular and pedestrian traffic which is expected to be associated with the home occupation at its peak level and on a routine basis.
- i) There shall be no exterior storage of materials, equipment, vehicles, or other supplies used in conjunction with a home occupation.
- j) The home occupation shall be conducted in a manner that will not interfere with the enjoyment of abutting residential dwellings by reason of noise, vibration, smoke, electrical interference, dust, odors, or heat. The use of substances in a manner which may endanger public health or safety or which pollute the air or water shall be prohibited. As such, the Planning Board may, as a condition of the Site Plan Review, establish limitations as to the hours of operation of the home occupation.

ACTION NEEDED: The Board should conduct the public hearing.

**Agenda Item #5 – Public Hearing: Site Plan Review for Home Occupation II –
Adam Sweet Music Studio**

Scheduled for 7:30 p.m., but applicant has withdrawn as of March 18, 2015.

Adam Sweet has submitted an application for Site Plan Review for a Home Occupation II use – a music studio – in his home at 56 Lincoln Avenue. The site is a 10,000 square foot lot situated on the southside of Lincoln Avenue. Currently, the property is zoned Residence A-2. (See map and aerial photo below).



The applicant has owned and resided in the residence for nearly 6 years. During this time, he has apparently been conducting music lessons without knowing that an approval was required and –



apparently - without the Town receiving any complaints until recently. He had planned to have a larger music performance at the residence but cancelled that event and relocated some of the larger music lesson activities to more appropriate locations upon receiving notice that approval of the home occupation was required. A “rather large” banner-type sign which had been affixed to the front of the residence has also been removed.

A copy of the application submittal has been posted on the Town’s website – the Planning Board page at the following link:

<http://ma-southhadley.civicplus.com/DocumentCenter/Home/View/1323>

Departmental Comments

Upon submittal of the application, a request for comments was sent to various departments. Prior to the March 9, 2015 public hearing comments/responses were received from all of the solicited departments (DPW Superintendent, Water Superintendent for Fire District #1, Fire Department for District #1, SHELD Manager, Police Chief, Public Health Director, Conservation Commissioner Administrator, and Building Commissioner) indicating that they had no objections. However,

- District #1 Lieutenant Jason Houle commented that “as long as the smoke and CO detectors are up to code”, he has no issues with the application.
- Building Commissioner Charlene Baiardi stated that “nothing in the Building Code would apply to music lessons on a small scale. Zoning would address the parking and as long as they complied with parking requirements, it would be acceptable.” Ms. Baiardi added that she did not think that the lessons constituted a “Change of Use” with the lessons nor did she see other Code related items. Accordingly, Ms. Baiardi stated the Building Department had no objections.

In emails following the March 9, 2015 public hearing, the Police Chief indicated that he assumed there would only be one student at a time. He also indicated that he agrees that the poor line of site at the subject location and the narrowness of the road (regardless of the presence or absence of snow) does not allow for vehicles to be parked on the street legally. He also noted that they receive on a yearly basis calls regarding the excessive speed of vehicles on the street. In terms of the applicant’s “solution” for overflow parking, the Police Chief agreed that there were too many variables with the proposed “solution”.

Lieutenant Houle of Fire District #1, in a follow up email also expressed concern about the possibility of on-street parking. He noted that the roadway is narrow, and cars would be parked near the crest of the hill which would create a hazard for Fire Apparatus responding to calls.

Initially, Building Commission Charlene Baiardi advised that the educational use might require compliance with the Architectural Access Board requirements. This could possibly be accomplished by providing suitable access at a different location.

However, in a discussion on March 18, 2015, Building Commissioner Baiardi stated that the Access Board requirements would only apply where the amount of improvements being undertaken total \$100,000 or more or amount to 30% or more of the value of the structure. Since no improvements are being proposed for this residence, it would appear that the Access Board requirements would not apply. As an aside, it is hard to envision any Home Occupation situation which would meet the thresholds for compliance with the Access Board requirements.

Public Comments

The Public Hearing was initially held on March 9, 2015 at 6:45 p.m. and continued to March 23, 2015. Six residents of the neighborhood (including two abutters and other residents of Lincoln Avenue and Broad Street) and nearly a dozen other interested members of the public attended the March 9, 2015 public hearing. There were questions/comments raised about traffic, proposed signage, potential growth of the business, change in neighborhood character, safety for children and others who walk in the area, and parking. No one indicated that they objected to the proposal

for teaching music lessons but the residents of the area and several other persons did express the aforementioned concerns. Other persons present indicated that they were students of the business and were unaware of the issues and concerns of the neighborhood and supported the proposal as laid out.

ACTION NEEDED: Since the applicant has withdrawn their application, no action is needed.

Agenda Item #6 – Decision: Site Plan Review for Home Occupation II – Adam Sweet Music Studio

No action necessary since application has been withdrawn.

ACTION NEEDED: No action necessary since application has been withdrawn.

Agenda Item #7 – Mountainbrook Subdivision – Release of Performance Guarantee

As the Board members know, this is a two-phase subdivision located off Westbrook Road and the end of Mountainview Street. Approved in 2006, the development has been much slower to be completed than anyone anticipated – largely due to the 2007-2008 downturn. At this point, only Phase 1 – approximately 33 of the subdivision’s eventual 52 lots – has been “completed” and is subject of this agenda item.

I have received an email from the Manager of this development requesting release of the performance guarantee. We had previously received acceptable “As-Built” plans and a Certification of Completion from their project engineer/surveyor.

Section 5.06 of the Subdivision Regulations sets forth the procedures for requesting and acting upon Releases of the Performance Guarantee. In accordance with the procedures, I am requesting a Completion Certification from the two Water Superintendents, SHELD Manager, and DPW Superintendent. As of March 17, 2015, I have received signed Completion Certifications from all four officials.

ACTION NEEDED: Release of the Subdivision Performance Guarantee. This would NOT affect the requirement that the developer maintain the Letter of Credit for the Special Permit Performance Guarantee.

Agenda Item #8 – 2014 Multifamily Amendment to the Zoning Bylaw

In 2014, Town Meeting amended the Zoning Bylaw, at the Planning Board’s request, to add the following Subpart (Z) to Section 7 of the Zoning Bylaw.

(Z) Multi-Family and Multiple Dwellings

(Adopted May 10, 2014 Town Mtg.)

All multi-family developments and developments with more than one dwelling on a single parcel of land shall conform to the provisions provided below.

- 1. Allowable Unit Count. The permitted number of dwelling units in a multi-family building or development and developments with more than one dwelling on a parcel shall not exceed the number permitted utilizing the*

methodologies established in Section 7J for land located within the Residence A-1, Residence A-2, and Agricultural districts, and on the dimensional table footnotes relating to the amount of lot area per dwelling unit for special permits in all other districts. Density bonuses may not be granted unless the development conforms to the Flexible Development process, procedures, and standards.

2. *Front Entrances. Front entrances to multi-family buildings shall open onto sidewalks and streets or common public spaces and not onto parking lots. Multi-family buildings and developments shall create shared open spaces, which may be - but shall not be required to be - open to the general public, along a street or common green. Rear entrances and entrances for services and delivery may be from parking areas.*
3. *Conformity to Other Requirements. In all other respects, the layout and relationship of buildings to each other and to streets, public spaces, and parking areas shall be as provided in other applicable sections of this Bylaw as well as any design standards or guidelines adopted by the Planning Board.*
4. *Required Open Space. On parcels of at least two acres, multi-family developments and developments with more than one building for dwelling purposes on a single parcel of land shall include usable open space in the same proportion and character as required of developments under Section 7(J) of the Zoning Bylaw.*
5. *Exceptions.*
 - a. *Such uses located within the South Hadley Falls Overlay District shall not be subject to the Density or Open Space restrictions within this subpart 7(Z).*
 - b. *Developments for which a permit has been granted or which have been developed prior to May 10, 2014, shall not be subject to the provisions of this subpart 7(Z).*
6. *Parcels containing more than one building with a dwelling. A parcel may contain more than one building with a dwelling, provided the following conditions are satisfied:*
 - a. *Such use is identified as being as allowed within the subject zoning district in by Section 5(E) Use Regulations Schedule; and,*
 - b. *The parcel has sufficient acreage to comply with applicable density limitations; and,*
 - c. *The applicable density limitations are the same as what is allowed under the Flexible Development provisions in Section 7J(7) except they may not exceed the cap set forth in Section 7(Z)5d below; and,*
 - d. *In the Residence A-1, Residence A-2, and Agricultural districts, no parcel of any size may contain more than 4 dwelling units on it except pursuant to the Flexible Development provisions of Section 7J; and,*
 - e. *Such a parcel may not be later subdivided unless the subdivided lots conform to the dimensional regulations and the infrastructure including but not limited to the right of way and roadway*

improvements conform to the Subdivision Regulations in effect when the subdivision is proposed.

The intent of the amendment was to establish limits on multifamily developments and developments involving more than one building on a single parcel which is used for dwelling purposes. Multifamily developments had been redefined to mean buildings with 3 or more dwelling units located therein. However, the wording of this provision seems to apply the “density” cap standard included therein to a single duplex on a single parcel.

An individual has expressed interest in applying for a Special Permit to construct a duplex on a parcel on Lyman Street. The parcel is zoned Residence A-2 and has a total land area of 29,814 square feet which is more than double the minimum area required for a Residence A-2 lot. But, with 140 feet of frontage, while the lot is 40% wider than required for the zoning district, it lacks sufficient frontage to be made into two lots or even a flag lot. However, under the wording of Section 7(Z), it would appear that the maximum density allowed is 2 units per acre and the subject property is not even an acre in size.

Therefore, this inquiry has raised a question as to the wording of the amendment, its intent, whether it is being read and interpreted correctly, and whether the section should be amended.

ACTION NEEDED: Determine what, if anything, can or should be done in regards to this issue.

Agenda Item #9 – Master Plan Matrixes

In January, members of the Master Plan Implementation Committee (MPIC) and the Board discussed the status – in general terms – of the Recommended Actions in the Master Plan. It was noted that many recommendations are being implemented while others are not. Reasons for non-implementation vary from the responsible board/committee/department not being interested in doing so to the recommendation no longer being relevant. Additionally, the discussion included consideration of updating the plan. As the first step to developing the scope for an eventual update of the plan (probably 4-5 years from now), the Board agreed that it would be appropriate to review the Implementation Matrixes and determine which Recommended Actions should be revised – rewording or assigning to a more interested or relevant department or board/commission and which ones should be deleted. To begin this effort, Ann Eaton of the MPIC has provided some current versions of some of the Implementation Matrixes:

- Agricultural Commission
- Conservation Commission
- Cultural Council
- Fair Housing
- Golf Commission
- Historic Commission
- Housing Trust

These Matrixes were previously provided to you.

I have met with two representatives of MPIC to discuss the matrixes further. They noted some areas in which there appear multiple departments with responsibility for related actions along 8 different topics:

- a) Recreation & Tourism
- b) Transportation & Mobility
- c) Communication & Education
- d) Community Preservation Act
- e) Historic District
- f) Walking & Biking
- g) Connectivity – Public Transportation
- h) Scenic Roads

The members of MPIC have taken the time to compile the Recommended Actions which fall into these various topics and the departments/boards/agencies which were designated as having responsibility for implementation of the various actions. This information has also been provided to you.

I am attempting to add clarity and consistency to the information provided to you. I hope to have some revised materials to you on Monday.

ACTION NEEDED: No definitive action is required at this time; however, the Board needs to begin reviewing each of the Recommended Actions on these matrixes.

Agenda Item #10 - Development Update and Planner's Report

I will provide a report on the following items:

a. ***Development Report***

Mount Holyoke College – Verizon Cellular Application: Ellen Freyman has indicated that she will be submitting a Special Permit application for a Verizon installation on the Mount Holyoke College Clapp Laboratory Building. The application is expected to be submitted within a month.

Annafield Estates Subdivision: This project is moving towards final completion very shortly.

Chatham Estates Subdivision: I had a discussion with Ken LeBlanc regarding this matter but have not heard anything further regarding the Engineer's Certificate of Completion.

34 Bridge Street: October 1, 2012 the Planning Board waived the requirement for a Special Permit for alteration/addition to nonconforming use/structure (i.e., converting office/retail space to an apartment). The waiver was subject to Tom Spring obtaining the necessary inspections and demonstrating to the code enforcement officials compliance with the various building, plumbing, electrical, and life safety-related codes. To date, that apparently has not been accomplished. This begs the question whether the waiver is still valid or has expired.

One Canal Street and 27 Bardwell Street: The Town has apparently accepted proposals for the sale and redevelopment of these two parcels. I briefly met with the purchaser of the properties. They are planning to submit applications to convert both properties into multifamily (condominiums are likely). Given their desired timeframe to begin the renovations on the Bardwell Street property and construction on the Canal Street property, I anticipate submittal of an informational plan within the next 1-2 months. The zoning of both parcels (1 Canal Street is zoned Business B while 27 Bardwell Street is zoned Residence B) will require a special permit for multifamily development.

b. *Pioneer Valley Planning Commission*

Housing Plan. We are waiting action on our application for a PATH grant. This grant would include undertaking an update of the Housing Production Plan (part of the Housing Chapter of the Master Plan) as well as undertake the multifamily development study.

Multifamily Development Study. In addition to the PATH grant application and request for a District Local Technical Assistance grant application to fund this study, I submitted a request for an appropriation in the FY 2016 budget for this study. The Town Administrator suggested that the Board submit a separate warrant article for this project. I prepared the background for that article and submitted it to the Town Administrator.

c. *Meeting Schedule through June 2015*

This is to recap the meeting schedule that the Board accepted through June 30th:

- a) March 23, 2015
- b) April 13, 2015
- c) April 27, 2015
- d) May 11, 2015
- e) May 27, 2015 TENTATIVE Replacement for Memorial Day
- f) June 8, 2015
- g) June 22, 2015

With the new website, the meeting schedule is no longer on the website. I am working to determine how to post a new Meeting Schedule on the Planning Board's web page.

d. *Workshops/Training Opportunities*

e. *OnLine Permitting Program*

f. *New Town Website*

Agenda Item #11 – Other New Business

I have included this agenda item for Board members to bring up new items (for discussion and future consideration) that are not on the agenda and which the Chair could not reasonably expect to be discussed/considered as of the date which the agenda was posted.