

Background Materials for June 3, 2019

Agenda Items #1 through #8

Agenda Item #1 –Minutes

Drafts of the May 13, 2019 Planning Board meeting and Public Hearing minutes have been prepared. I am currently reviewing them and anticipate transmitting them Monday for your review.

ACTION NEEDED: Review, edit and approve the minutes.

Agenda Item #2 –Correspondence

A list of correspondence is attached.

ACTION NEEDED: Review the list of correspondence, if any new correspondence is received.

Agenda Item #3 – 1 Canal Street – Reissue Special Permit

On March 20, 2017, the Planning Board unanimously approved a Special Permit (copy is attached) to permit construction of 12 units of multi-family housing on the subject property. This site consists of a 0.96 acre tract situated at the intersection of Canal, Main, and High Streets (see aerial photo below) across from the Town's main library.



In 2018, the Planning Board approved an amendment to the Special Permit to change the name of the developer/applicant since Special Permits are not transferrable. All other conditions of the 2017 approval were left in place – unchanged.

The 2017 approval included numerous conditions. One of the conditions, fairly routine for the Board, is a requirement that the Decision be filed within 20 days of the expiration of the appeal period. This filing apparently did not occur. The purpose of the filing of the Decision in the Registry is to insure that any person purchasing the property would have notice as to the conditions of the Special Permit. Neither State law nor the Town's Zoning Bylaw requires filing of the Decision within the time frame specified in the Decision.

Since the Decision was not filed within the 20 day time frame, the Building Commissioner indicated that the Decision "expired". The applicant's/developer's attorney has suggested that the Planning Board could re-issue the Special Permit subject to the same conditions as were attached in 2017 with the change in applicant/developer as approved in 2018. In re-issuing the Special Permit, the Board could modify the filing requirement to require that the Decision be required prior to beginning any site work or obtaining a Building Permit – the Building Commissioner has indicated he does not object to such re-issuance or to the change in when the Special Permit has to be recorded.

The developer is making revisions to their plans for the purpose of obtaining a building permit and beginning work this summer.

The applicant's request appears reasonable and appropriate. I would note that all Special Permit Decisions have not included the same language as to the timing of the recording of the Decision. I have had discussions with the applicant's engineer and anticipate the items required for further Planning Board action will be submitted during June.

If the Board decides not to re-issue the Special Permit as requested, the applicant/developer could apply for a new Special Permit subject to the same conditions as were attached in 2017. This would probably delay applying for a Building Permit until at least August – possibly September given the conditions that would need to be satisfied – assuming the Board approved the new Special Permit.

ACTION NEEDED: Consider the applicant's request.

Agenda Item #4 – 1 Canal Street – DECISION: Reissue Special Permit

If the Board has all the information needed to make a decision following the applicant's request, the Board should decide whether or not to approve the request.

ACTION NEEDED: Decide whether or not to re-issue the 2017 Special Permit Decision as amended in 2018. If the request is granted, the Board can and should modify the language filing of the Decision with the Registry. The new language should become the Board's standard condition.

Agenda Item #5 –Public Hearing – General Planning Board Regulations **6:45 p.m.**

With input from the Town Counsel, I have prepared some General Planning Board Regulations which are intended to produce more consistent application requirements and a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s.

53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

Within the General Planning Board Regulations as drafted, I have included provisions which address the following:

- 1) Number and format of application submittals;
- 2) Providing an assessment of the impact a project might have on the public water supply;
- 3) Consultation with the Board of Health, Conservation Commission, and District 2 Board of Water Commissioners when a project is in a Zone II or Zone III
- 4) Use of Chapter 44, Section 53G for Peer Reviews for Site Plans, Special Permits, Subdivisions, 40R Plan Approval applications, and Stormwater Management Permit applications.

The draft proposed General Planning Board Regulations are posted on the Town's website at the following link: <https://www.southhadley.org/DocumentCenter/View/5180/Proposed-South-Hadley-Planning-Board-General-Rules-and-Regulations>

The public hearing has been posted and advertised for 6:45 p.m.

These Rules and Regulations would be applicable to any application which has not been submitted as of their effective date. Any freeze on the Zoning Bylaw would not apply to these Rules & Regulations.

ACTION NEEDED: Conduct the public hearing.

Agenda Item #6 – Decision – General Planning Board Regulations

If the public hearing is closed, the Planning Board can and should consider adopting General Planning Board Rules and Regulations. They would take effect upon filing with the Town Clerk.

ACTION NEEDED: Adoption of the Rules and Regulations so they can be filed with the Town Clerk.

Agenda Item #7 - Development Update and Planner's Report

I will provide a report on the following items:

a. Development Report

- North Pole Estates Preliminary Subdivision Plan – (No change – but the Public Health Director has been involved with the required perc tests for each of the proposed 59 lots.)
- Bridge Street Mixed Use Development – (No change.)
- Newton Street Smart Growth Zoning District – (The draft Design Standards have been posted on the Town's website. I have made revisions to the previous draft to address issues raised by the Mass Department of Housing and Community Development staff as well as an architect designing plans for a proposed development. Generally, the DHCD comments sought to clarify in the standards – particularly where the standards use the term “appropriate”. DHCD and the architect sought clarity as to the “New England aesthetic” phrase used in the “Vision” statement. One particular issue raised by the

architect was that the amount of landscaping required in the parking area did not appear to reflect that the Woodlawn Plaza site has a massive parking lot and redevelopment with housing is going to include open space associated with the housing. Another issue raised by the architect related to the step back requirement in Section 7.1.3.). The public hearing has been scheduled and advertised for June 17th and the public hearing draft is posted on the Town's website at the following link:

<https://www.southhadley.org/DocumentCenter/View/5220/Proposed-Design-Standards-for-Newton-Street-Smart-Growth-Zoning-district>

- Smart Growth Districts Administrative Regulations – (I have made revisions in the Administrative Regulations and Application form to address issues raised by the DHCD staff. The public hearing has been scheduled and advertised for June 17th and the public hearing draft is posted on the Town's website at the following link:

<https://www.southhadley.org/DocumentCenter/View/5217/Town-of-South-Hadley-Administrative-Regulations-2019-05-23-Public-Hearing-Draft>

b. Bylaw Amendments

- Bylaw Amendments for 2019: (The information has been submitted to the AG's Office for review)

c. Other Projects

- Urban Renewal Plan and Redevelopment Authority: (No change.)
- MassWorks Grant – Gaylord Street: (Work is progressing well and we expect to have the project finished within the next few weeks.)
- Complete Streets Program Participation: (The project is out for bids according to the DPW Superintendent.)
- Open Space & Recreation Plan and Master Plan Updates: The fourth Community Forum is scheduled to be held on Wednesday May 29, 2019 at the South Hadley Town Hall Auditorium. Additionally, the MPIC held 3“Meetings in a Box” as follow ups to the third forum:
 - May 4, 2019 at 10:30 am, Falls Neighborhood Association at the SH Public Library
 - May 9, 2019 at 7:00 pm, Community Room, Riverboat Village, 173 Riverboat Village Road
 - May 16, 2019 at 6:00 pm, Fire District 2, 20 Woodbridge Street

d. Workshops/Training Opportunities

I plan to attend the Massachusetts Association of Planning Directors annual conference in North Adams in May.

Agenda Item #8 – 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.

SOUTH HADLEY PLANNING BOARD

LIST OF CORRESPONDENCE

June 3, 2019

Letters & Memo

- Letter received May 16, 2019 from FEMA regarding a field survey in support of floodplain mapping updates in the Middle Connecticut Watershed.
- Letter received May 23, 2019 from the Conservation Administrator/ Planner regarding the Conservation Commission's denial of a certificate of compliance for the construction of a building at 548 New Ludlow Road.
- Letter received May 23, 2019 from Rocco Falcone, Manager of South Hadley Plaza LLC, regarding the proposed sign standards for the Newton Street/Lyman Street Smart Growth District.

Town Department Comments on Pending Projects

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Town Department Agendas & Minutes

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Legal Notices

Amherst

- Notice from the Amherst Planning Board received May 22, 2019 for a Public Hearing on June 5, 2019 at 7:05 PM to consider Zoning Bylaw changes mandated by the Amherst Home Rule Charter.
- Notice from the Amherst Planning Board received May 23, 2019 for a Notice of Filing with the Town Clerk on May 20, 2019 a decision to approve Site Plan Review to operate a class 1 restaurant with seasonal outdoor patio and live or pre-recorded entertainment at 1 East Pleasant Street.

Chicopee

- Notice from the Chicopee Zoning Board of Appeals received May 16, 2019 for a Notice of Decision to approve a variance with conditions to construct a carport at 15 Whittier Place.
- Notice from the Chicopee Zoning Board of Appeals received May 16, 2019 for a Notice of Decision to approve a variance with conditions for a reduction of frontage, reduced area and reduced side setback at Ashgrove Street
- Notice from the Chicopee Zoning Board of Appeals received May 16, 2019 for a Notice of Decision to approve a variance with conditions to establish a new lot line between two existing residential lots and leave two accessory buildings each at 190 Newbury Street.

Legal Notices (continued)

Granby

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Hadley

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Holyoke

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News Articles

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Publications

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MARK CAVANAUGH, Chair
MELISSA O'BRIEN, Vice-Chair
DIANE SUPCZAK-MULVANEY, Clerk
BRAD HUTCHISON
JOANNA BROWN
LARRY BUTLER

RICHARD HARRIS, Director of Planning & Conservation

**TOWN OF SOUTH HADLEY
NOTICE OF PLANNING BOARD PUBLIC HEARING**

Proposed General Planning Board Regulations regarding Application Requirements (including but not limited to, Application Fees and Application Review Fees) relative to Site Plan Review, Special Permit, Subdivisions, and Other Application Submittals

Pursuant to Massachusetts General Laws Chapter 44, § 53G, Chapter 41, § 81Q, and Chapter 40A, § 9, and the South Hadley Zoning Bylaw, and the South Hadley Subdivision Regulations, the Planning Board of the Town of South Hadley will hold a public hearing to discuss proposed General Planning Board Regulations regarding Application Requirements (including but not limited to, Application Fees and Application Review Fees) relative to Site Plan Review, Special Permit, Subdivisions, and Other Application Submittals as noted herein. The public hearing will be held as follows:

Place: South Hadley Town Hall, 116 Main Street - Selectboard Meeting Room;, South Hadley, MA
Date: Monday, June 3, 2019
Time: 6:45 p.m.

The purpose of the proposed General Planning Board Regulations is to produce a more consistent and equitable application submittal requirements and schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board. The proposed Regulations, which will be supplemental to the more specific Rules and Regulations adopted for Site Plan Review, Special Permit, and Subdivision Applications, provide for the number and form of the copies of submittals (including, but not limited to, the application, support narrative, and plans) required for applications for Site Plan Review, Special Permits, Approval Not Required Plans, Preliminary and Definitive Subdivisions, Form H Plans, and waivers to any of the requirements. The complete text and maps (if any are applicable) relative to the proposed amendments is available for inspection during regular business hours (8:30 a.m. to 4:30 p.m.) at the following place:

South Hadley Planning & Conservation Department Office
Town Hall, 116 Main Street – Room 204
South Hadley, MA 01075

Additionally, a copy of said proposed amendments is posted on the Planning Board page of the Town's website in the folder entitled "Proposed General Planning Board Rules and Regulations".

Any person interested in, or wishing to be heard on, the proposed amendments should appear at the time and place designated for the public hearing.

Diane Supczak-Mulvaney, Clerk
South Hadley Planning Board

Publication: Friday, May 17, 2019
Friday, May 24, 2019

TOWN OF SOUTH HADLEY

**PLANNING BOARD RULES AND REGULATIONS
CONCERNING APPLICATION REQUIREMENTS, APPLICATION FEES,
APPLICATION REVIEW FEES AND FEE SCHEDULES**

1. Purpose:

These regulations and fee schedules have been adopted to produce more consistent application requirements and a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

2. Application:

- a. Each application for review by the Planning Board shall be submitted to the Planning Board accompanied by two (2) paper copies and one digital copy of each complete application submittal (this shall include the completed and signed applicable application form, related project narrative, Site Plan, and other supporting materials). Each copy of the submittal is to be properly collated prior to submittal. A copy of said application shall be concurrently filed with the Town Clerk.
 - i. In the case of an application for an Approval Not Required (ANR) Plan, the applicant is to also submit two (2) mylar copies of the proposed plan.
- b. The Date of receipt by the Town Clerk shall be considered the date on which the application has been filed with the Planning Board.
- c. The “digital copy” shall be in a format acceptable to the Town Planner/Planning Director which will allow transmittal via email and posting on the Town’s website. Generally, the digital copy is to be in a Portable Document Format (PDF) unless the Town Planner/Planning Director determines a different format is equally acceptable. The “digital copy” may be submitted to the Town Planner/Planning Director via email the same day on which the paper copies are submitted or contained on a computer disk submitted with the paper copies.
- d. The Planning Board reserves the right to require submittal of up to nine (9) additional paper copies of the application submittal (or portions

thereof) if the reviewing departments or Planning Board members request such materials.

- e. Modifications application materials or subsequent supplemental materials shall be submitted in the same quantity and formats as the original application submittal.
- f. Any project (other than an ANR Plan) proposed to be carried out within the DEP Zone II or DEP Zone III of the Dry Brook Public Water Supply Well is to include an assessment of the proposed development's impact on the public drinking water supply.
- g. For any application (other than for an ANR Plan) for a project proposed to be carried out within the DEP Zone II or DEP Zone III of the Dry Brook Public Water Supply Well, the applicant is to document that they have consulted with the Board of Health, Fire District 2 Board of Water Commissioners, and the Conservation Commission.

3. Application Fees:

All applications to the Planning Board shall be accompanied by cash or check payable to the Town of South Hadley in the amount specified in Appendix D (South Hadley Planning Board Fee Schedule). The costs of advertising the public hearing are to be paid by the applicant. Said Appendix is incorporated herein.

4. Application Review Fees:

In addition to those fees established in Section 3 above, the Planning Board may impose a fee, pursuant to Massachusetts General Laws Chapter 44, § 53G, Chapter 41, § 81Q, and Chapter 40A, § 9. for project review on those applications which require, in the judgment of the Planning Board, review by outside professional consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

- a. If the Planning Board has previously determined that an Application Review Fee is to be required for a proposed application, the Application Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G. Any such application filed without this fee shall be deemed

incomplete and no review work shall commence until the fee has been paid in full.

- b. If during the course of the Planning Board review of an application, the Board determines that an outside review to be paid for by an Application Review Fee is necessary, the applicant shall submit the Application Review Fee within fourteen (14) calendar days of the Board's determination.

The Planning Board, in collecting and expending said Application Review Fees, selecting the consultant, and all other matters related to its utilization of the Application Review Fees shall be governed by paragraphs 5 through 11 below). The Applicant's right to appeal said Application Review Fees are set out in paragraph 13 below..

5. Professional Fields

- a. Professional Expertise/Consultants. In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, by-laws, and regulations.
- b. Minimum Qualifications. All consultants selected by the Board must meet minimum qualifications consisting of:
 - i. an educational degree in, or related to the field at issue, from a recognized public or private college or university,
 - or**
 - ii. three or more years of practice in the field at issue or a related field.

6. Filing with Town Clerk

The selection made by the Board shall be recorded with the office of the Town Clerk within five business days of the Board's final selection(s).

7. Deposit of Funds/Establishment of Special Account/Use of Funds

Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special account for this purpose.

- a. Expenditures From Fund. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been, or will be, collected from the applicant.
- b. Review fees may only be spent for services rendered in connection with the specific project for which they were collected. These services shall include, but are not necessarily limited to: project reviews, document reviews, and project-related inspections. Accrued interest may also be spent for this purpose.
- c. If the outside consultant review begins and expenses are generated prior to the filing of a formal administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.

8. Amount of Application Review Fee

- a. Minimum Fees. The fee schedule of the Planning Board under Application Review shall be adhered to in determining the review fee required for the establishment of the special account.
- b. Additional Review Fee. If review funds charges are insufficient to cover the costs of outside professional expertise and/or consultant review, the Board may require the applicant to pay an additional review fee to cover these costs provided these costs are reasonable and directly related to the project undergoing review.

9. Failure To Pay

Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

10. Excess Funds Returned

At the completion of the Board's review of a proposed project, or at a time determined at the submission of the application/permit, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest.

11. Report of Account

A final report of the status of said account shall be made available to the applicant or the applicant's successor in interest.

12. Successor In Interest

For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation that legally establishes this succession in interest.

13. Appeals

- a. Method of Appeal. Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Selectboard.
- b. Grounds for Appeal. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications.
- c. Seven Days To File Appeal. Any applicant aggrieved by a selection of an outside consultant may appeal to the Selectboard provided that such appeal is entered within seven days after such selection has been made as recorded in the office of the Clerk. An appeal will not be considered valid unless it is formally filed with the office of the Town Clerk with a copy given to the Selectboard.
- d. Waiver of Appeal. The applicant should notify the Planning Board of its intention to seek a waiver at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will be then viewed as an intention to appeal of the part of the project applicants. Failure to inform the Board of such intention of appeal may result in the delay of start-up of the town outside review services.
- e. Action On An Appeal. In acting on an administrative appeal, the Selectboard may determine that:
 - i. a conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore, the Planning Board must select another consultant,

or
 - ii. a conflict or interest does not exist, and/or the consultant does meet the minimum qualifications, therefore, the selection made by the Planning Board stands.

- f. No Decision On Appeal. In the event that no decision is made within one month (30 days) following the filing of the appeal, the selection made by the Board shall stand.

14. Review Period Extended

The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing such Appeal.

15. Supplementary

These General Regulations are supplementary to other provisions of the South Hadley Zoning Bylaw, South Hadley Subdivision Regulations, the Special Permit Rules and Regulations, and the Site Plan Review Rules and Regulations.

16. Procedural History

On June 3, 2019, the Town of South Hadley Planning Board held a public hearing, pursuant to G.L. c. 41, s. 81Q and G.L. c. 40A, s. 9, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it.