

MILLBURY PLANNING BOARD
MINUTES
March 27, 2017

The regularly scheduled meeting of the Millbury Planning Board was held on Monday, March 27, 2017 at 7:15 p.m. in the Municipal Office Building, 127 Elm Street, Millbury, MA. Vice-Chairman Paul Piktelis presided.

Present: Edd Cote, David Haak, Paul Piktelis, Michael Georges

Absent: Rich Gosselin

7:15 p.m. Carla Rodrigues, 60 McCracken Road Map 34 Lot 30 - Site Plan Review for dog kennel - Public Hearing

Edd Cote read the legal notice for a public hearing for a proposed dog kennel to be located at 60 McCracken Road.

Attorney Donald O'Neil represented the applicant, Carla Rodrigues and provided an overview of the application. The applicant has gone before the Zoning Board of Appeals and have been approved to have a kennel. A kennel license is needed because there are more than three dogs. The dogs are Ms. Rodrigues' pets and will not be treated like a typical kennel situation. The dogs live in the house and Ms. Rodrigues is proposing an area behind the house that would be fenced in. The Board of Appeals limited the decision to the client individually. If she were to sell the property, the decision would not pass with the property. The property that Ms. Rodrigues wishes to purchase is twenty-four acres where a house will be constructed. Ms. Rodrigues currently owns nine dogs. No outside structures or runs will be built for the dogs.

The Town Planner provided a memo on the project with the following proposed waiver requests and responses:

The applicant is seeking a waiver of the review fee. The Planner recommended denial of the waiver due to advertising costs, etc. however it was clarified that the waiver being sought was on the engineering fee.

Town Planner recommended granting a waiver for outdoor illumination as no additional lighting is proposed.

Town Planner recommended granting a waiver request for isometric line drawing due to the scale and type of proposed development.

Town Planner recommended denying a waiver request for elevations and a façade treatment plan if the applicant is proposing to shelter dogs in an accessory structure, the waiver request should be denied. Attorney O'Neil indicated that the dogs will be in the house. The final house

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MILLBURY, MASS.

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plans are not yet completed, but the applicant would also seek additional waivers for landscape features and signage.

The Planner recommends denying the applicant's request for a waiver for survey points.

The applicant is also seeking waivers on Building Elevation Plans and Development Impact Statements. The Planner recommends granting the requests.

The applicant is also seeking waivers for 1' contours for topography and the locus plan is not-to-scale.

General discussion followed as to what the applicant would do to avoid nuisance to the neighbors. Attorney O'Neil indicated that the area would be fenced in, is considerably set back from the road and there are over twenty-four acres available. There's plenty of distance from the neighbors for noise. The dogs would not be left outside all day. There would also be a dumpster for disposal of dog excrement.

Edd Cote inquired about breeding and if the applicant is selling dogs. Attorney O'Neil stated this is more of a hobby than a business. The applicant currently has nine dogs but could go up to twelve dogs.

Edd Cote noted that there are only two monuments shown on the plan defining the lot lines. Attorney O'Neil will have the surveyor add that information and will withdraw a request for a waiver on that.

Town Planner, Laurie Connors inquired how often dog excrement will be removed as the wetlands are downstream from the location. Ms. Rodrigues would pick up daily.

Edd Cote noted building elevations are not shown on the plan. Attorney O'Neil is seeking a waiver on elevations, however noted that they will not exceed town requirements. The final house plan design is not completed as the property has not been purchased yet.

Sally Jablonski, 76 McCracken Road raised concerns as the plan does not show where the house and dogs will be located. There is a potential for noise with up to twelve dogs. Ms. Jablonski stated the area is not a commercial neighborhood.

Douglas Sharleville, a resident building a house next to the proposed dog kennel (66 McCracken Road) stated having up to twelve dogs is going to be a nuisance to the neighborhood. The dogs could have puppies two times a year which would increase the number of dogs. Ms. Jablonski again raised the noise issue and how it will affect her.

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Attorney O'Neil stated the proposed house will be 400' from the road. The area for the dogs is approximately 100' feet beyond that. There is quite a distance from the street and neighbors. This is not a typical kennel situation. The dogs are pets. Attorney O'Neil does not expect to have noise, smell or other nuisance to anyone but rather will be well maintained.

Discussion followed with regard to noise issues with barking. Carla Rodrigues stated that the dogs are highly trained show dogs and are respectful to people. The dogs are exercised, trained and are not barking dogs. The dogs live in the house with the owner.

Sandy Jablonski inquired as to what guarantee or recourse the neighborhood has if what the owner says does not happen. The area is a residential neighborhood, not commercial.

Attorney O'Neil stated the scope of the Planning Board is site plan such as fencing, etc. He indicated that almost one acre would be fenced in.

Edd Cote informed the public there is little in the Town by-laws with regard to nuisance dog barking and that may not fall under the Planning Board jurisdiction. At the next town meeting a bylaw is being proposed that all should become familiar with. The Planning Board would not be the board that will enforce it. Exercise your right at Town meeting.

Sandy Jablonski, 76 McCracken Road stated they already have issues with traffic and roads not being tended to.

Michael Georges asked Ms. Rodrigues if there will be a separate area within the house where the dogs are going to be housed and if that area will be sound proofed. Ms. Rodrigues indicated that the dogs will be roomed in crates in the house. Animal Control has already been in contact with Ms. Rodrigues. The dogs are not left outside unattended.

Douglas Sharleville stated these are not pets, but is going to be a profitable business in a residential neighborhood. Edd Cote stated the area is zoned Suburban use and a kennel is allowed by special permit.

Lisa Prytco 87 McCracken Road believes there will be an issue with noise as it will carry. Ms. Prytco inquired if the appeal of the decision from the Board of Appeals is overturned what would happen.

Town Planner, Laurie Connors indicated if the appeal of the "use" is overturned, then they wouldn't be able to have the kennel. Ms. Connors stated the Planning Board has 90 days from the close of the public hearing to render a decision. Ms. Connors indicated that construction of

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the home could take place, however, the applicant could not house the dogs until a decision is decided in Court with regard to the appeal of the Board of Appeals decision.

Edd Cote made a motion to close the public hearing, seconded by Michael Georges, voted unanimously.

Edd Cote concerned about basic site plan review and the lack of monumentation and elevations. Laurie Connors stated that the Board could require that the plan be updated before rendering a decision. The Board has no idea what the house is going to look like and that is part of site plan review. Ms. Connors indicated that Board would reopen the public hearing and ask for a revised plan. Paul Piktelis agrees that monumentation must be shown. Michael Georges is inclined to waive the elevations in this circumstance.

Edd Cote made a motion to waive the technical review fee, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to waive the requirement to submit outdoor illumination, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to grant the waiver request to submit an isometric line drawing, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to waive the requirement to submit a landscape plan, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to waive the requirement to depict at least three boundary markers with Mass Grid Plan Coordinates, Michael Georges seconded, all members voted opposed. The motion did not carry.

Edd Cote made a motion to waive the request to submit façade plan and building elevation plan, Michael Georges seconded, Paul Piktelis, David Haak and Michael Georges voted in favor, Edd Cote voted opposed.

Edd Cote made a motion to grant the request to waive the requirement to submit a Development Impact Statement, Michael Georges seconded, voted unanimously.

Edd Cote made a motion to grant the request to waive the requirement to submit topography contour lines at (one) foot intervals, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to grant the request to waive the requirement to submit a locus plan at a scale of 1" = 100', seconded by Michael Georges, voted unanimously.

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Prior to endorsement, the applicant must provide a bar scale of 1" = 80', revise the signature block to include the Town of Millbury, correctly identify map as shown of the Millbury Assessors' Map 34 instead of 31 and adjust site plan to include all monumentation. All rules and regulations of the Millbury Zoning Bylaw shall be adhered to, any substantial change to the site Plan shall require application for a new Site Plan Review approval, all required fees associated with the application shall be paid, compliance with all local, state and federal regulations is the responsibility of the applicant and its contractors and each condition of the decision shall be construed as separate to the end, and if any condition shall be held invalid for any reason, the remaining conditions shall continue in full force and effect.

Edd Cote made a motion to approve subject to stipulations review, Site Plan permit for Carla Rodrigues, plan developed by Clear Water Environmental, last revised on February 25, 2017, Site Plan for 60 McCracken Road, seconded by Michael Georges, voted unanimously.

The Board took a five minute recess.

7:30 p.m. Proposed Zoning By-Law Amendments - Public Hearing

Edd Cote read the public hearing notice for amendments to zoning by laws.

Robert Frederico, Building and Zoning Commissioner was present to provide an overview on the proposed zoning by-law amendments. The recommendations are a result of discoveries that have been made over the past three years and also will align with what other cities and towns in the area have done. Four articles have been sent to Town Counsel who has made edits and refinements to the language.

Article 2, Section 22.2 by deleting the following italicized text: In a Residential 1 District the following *principal* uses are permitted if granted a special permit by the special permit granting authority: Mr. Frederico stated currently this text speaks about an R1 district, however all items are germane to all residential districts. Town Counsel did not offer any additional comments to the proposed change.

Larry Richards, 6 Lincoln Avenue questioned if this language will allow a legal change to change a facility from one activity to another such as spectrum house e.g. would it open up to residential use on the property. Mr. Frederico indicated this is more of a typographical issue rather than tightening up or loosening restrictions. A special permit still needs to be done.

Article 3, section 34.3 by adding the following text; 11. Political Signs; provided they meet timeline requirements as listed by applicable local, state, and federal election laws. Signs must

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meet any applicable size, height and location requirements. Mr. Frederico noted that Millbury is one of the few towns that require paid permits for political signs. There is an inconsistency in the ability to enforce and regulate between local and/or presidential elections. Mr. Frederico is proposing taking away the requirement for paid permits for any election held in the Town, yet still meet size, safety requirements, etc. Town Counsel provided the following language; 11. Political Signs; provided they meet any applicable size, height, and location requirements. Bob would ask the Board to approve Town Counsel's suggested language.

Art. 3 section 34.4 by adding the following text; 10. Political signs of any kind on public property. Town Counsel has provided the following edits; 10. Signs of any kind on public property without the express written approval of the public entity in control of such property.

Edd Cote provided an example of a crashed up car being on Town property with a SADD sign or a banner that may go up for a particular event. Mr. Cote's intent is not to discourage different messages where the intent is something good for the Town. Mr. Frederico reiterated that the proposed language states signs are prohibited on public property, however, the public entity can give permission.

Michael Georges asked about signs that are held on election days. Mr. Frederico indicated that falls under first amendment rights. State and Federal regulations fall under the election commission.

Article 3, Section 34.6 by adding the following italicize text; 1. Election-specific political signs to be displayed 45 days prior to election and removed 3 days after the election. After Town Counsel review, it was recommended to keep the language as currently written in the by-laws. Bob Frederico is withdrawing the proposal.

Edd Cote made a motion to close the public hearing, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to refer to Town Meeting proposed changes to Article 2, Section 22.2, seconded by Michael Georges, voted unanimously. Edd Cote made a motion to refer to Town Meeting proposed changes to Article 3, Section 34.3 as modified by Town Counsel, seconded by Michael Georges, voted unanimously. Edd Cote made a motion to refer to Town Meeting proposed changes to Article 3, Section 34.4 as written, seconded by Michael Georges, voted unanimously. Edd Cote made a motion to refer to Town Meeting proposed changes to Article 3, Section 34.6 as written, seconded by Michael Georges, voted unanimously opposed.

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7:45 p.m. Jessica Thomas, 110 Elm Street - Special permit for sign - Public Hearing

Edd Cote read the public hearing notice for a sign to be located at 110 Elm Street.

Jessica Thomas provided information to the Board about the proposed thirty minute kickboxing fitness center to be located at 110 Elm Street. Ms. Thomas is utilizing Creative Sign Works to install the sign. The existing bracket height of seven foot will be raised to ten feet as the bottom of the sign must be ten feet from the sidewalk height. The sign will be illuminated until 8 p.m. but will be off when the business is closed. Edd Cote noted that the sign cannot project more than two thirds of the sidewalk area. Ms. Thomas stated the contractor is aware of that.

Edd Cote made a motion to close the public hearing seconded by Paul Piktelis, voted unanimously.

EC made a motion to grant a special permit for a sign three feet by three feet as applied for by Jessica Thomas, 421 Charlton Street, Southbridge, MA to be installed at 110 Elm Street with the following conditions: (a) All rules and regulations of the Millbury Zoning Bylaw shall be adhered to (b) Any substantial change shall require application for a new special permit. The planning Board shall determine what constitutes a significant change (c) All required fees shall be paid (d) The sign face will be permanently affixed to the existing sign bracket. The bottom of the sign shall be installed ten feet above the sidewalk. (e) Each condition of this permit shall be construed as separate to the end, and if any condition shall be held invalid for any reason, the remaining conditions shall continue in full force and effect, seconded by Michael Georges, voted unanimously.

8:00 p.m. Thomas Stratford, 221 Riverlin Street - Site Plan Review and Stormwater Management Permit for construction of a "build to suit" project - Public Hearing

Edd Cote read the public hearing notice for construction of a "build to suit" project with a future use that would be allowed under current Industrial I zoning.

Bob Murphy from Murphy Associates represented the applicant Thomas Stratford and 237 LMB, LLC. The lot is a non-conforming stand-alone lot. The applicant would like to construct a 6,000 square foot building for a commercial/industrial use. There is no potential tenant at this time. Mr. Murphy is going before the Zoning Board of Appeals in April asking for a waiver on zoning requirements for square footage from 80,000 square feet to 43,000 square feet. Mr. Murphy has gone before the Conservation Commission and the site has been accepted.

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Mr. Murphy will request a continuance of the hearing as there are multiple items to be addressed as outlined by the Town's engineering firm, Stantec. Mr. Murphy provided a general overview with regard to parking requirements based on potential type of use of the site.

Town Planner, Laurie Connors initiated discussion with regard to grandfathering of the site. Mr. Murphy will have to provide evidence to the building inspector that the property is grandfathered. If the site is not grandfathered, a variance must be granted. Mr. Murphy received a letter from the building inspector which he is appealing to the Board of Appeals. Mr. Murphy will request a variance due to a hardship based on topography, wetlands, easements, etc.

Ms. Connors is concerned that one of the triggers for site plan review is building size. The plan does not show anything about the building elevations, showing windows or other specifications. Michael Georges would like to see a building elevation plan. Mr. Murphy could provide an architectural plan, however that may not meet the needs of the building/tenant. Edd Cote inquired if the applicant could come back before the Board for a major modification if the plan is approved. Ms. Connors indicated the applicant could come back for a major modification in the future if they don't go forward as what is currently laid out. Mr. Murphy anticipates coming back before the Board with minor modifications.

Mr. Murphy stated the plan will be for a steel building with a façade. Based on the upland area, well, drainage, emergency access around the building, etc. 6,000 square feet is the biggest building that could fit on the site. Drainage doesn't work on a larger size building. Ms. Connors would recommend a condition of approval that prior to construction, the applicant provide details of the building to be constructed on the site. Mr. Murphy's intent is to work with the Planner and provide a package with few conditions so that the Board is aware of what they will be voting on.

Edd Cote made a motion to continue the public hearing to April 24, 2017 at 7:15 p.m. in the Selectmen room, seconded by David Haak, voted unanimously.

Other Business:

Town Planner, Laurie Connors initiated discussion about sending meeting-related items and plans electronically in advance of the meeting. Edd Cote did not want to be accepting comments, etc. later than the Wednesday prior to the Monday night meetings. The Board was in overall agreement. After general discussion, Edd Cote stated the Board is hoping to avoid seeing revised plans produced at the time of the hearing.

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Minutes:

Edd Cote made a motion to accept the minutes of March 13, 2017 as written, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to accept the minutes of January 3, 2017 as written, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to accept the minutes of December 12, 2016 as written, seconded by Michael Georges, voted unanimously.

Edd Cote made a motion to accept the minutes of November 28, 2016 as written, seconded by Michael Georges, voted unanimously.

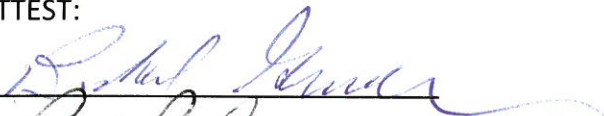
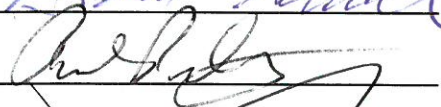
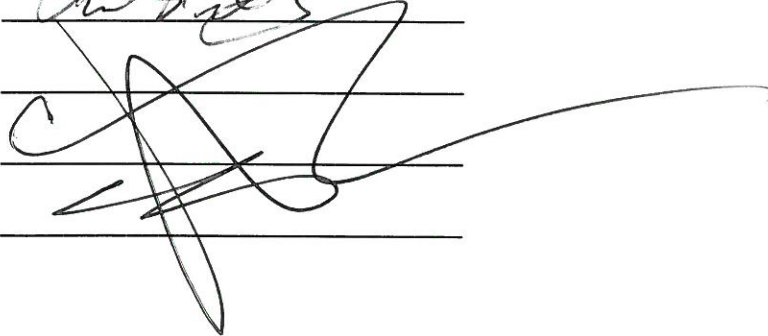
Adjournment

Edd Cote made a motion to adjourn, seconded by Michael Georges, voted unanimously.
Meeting adjourned at 9:47 p.m.

Respectfully submitted,

Michelle T. Desorcy

ATTEST:



TOWN OF MILLBURY

DEPARTMENT OF PLANNING & DEVELOPMENT

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-4754 • FAX. 508 / 865-0857

Revised

PLANNING BOARD AGENDA

March 27, 2017

7:15 p.m. Carla Rodrigues, 60 McCracken Road Map 34 Lot 30, - Site Plan Review for dog kennel- Public Hearing

7:30 p.m. Proposed Zoning By-Law Amendments - Public Hearing

- **Article 2, Section 22.2** by deleting the following italicized text; In a Residential 1 District the following *principal* uses are permitted if granted a special permit by the special permit granting authority:
- **Article 3, Section 34.3** by adding the following text; 11. Political Signs; provided they meet timeline requirements as listed by applicable local, state, and federal election laws. Signs must meet any applicable size, height and location requirements.
- **Article 3, Section 34.4** by adding the following text; 10. Political signs of any kind on public property.
- **Article 3, Section 34.6** by adding the following italicized text; 1. Election-specific political signs to be displayed 45 days prior to election and removed 3 days after the election.

7:45 p.m. Jessica Thomas, 110 Elm Street - Special permit for sign - Public Hearing

8:00 p.m. Thomas Stratford, 221 Riverlin Street – Site Plan Review and Stormwater Management Permit for construction of a “build to suit” project with a future use that would be allowed under current Industrial 1 zoning – Public Hearing

New Business:

Other Business:

- Mail, Minutes, Vouchers
- All business not reasonably anticipated to be discussed

RECEIVED
TOWN CLERK
17 MAR 27 AM 9:28
MILLBURY, MASS

SIGN-IN SHEET

Date/Time 3/8/17 7:15 pm
Calle Rodriguez 60 McCracken Rd.

NAME	ADDRESS	I WISH TO SPEAK	
		YES	NO
1 Samha Jablonski	76 McCracken Rd	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2 Sally Jablonski	96 McCracken Rd	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3 BOB FRADGERTO	Town of Millberg	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4 Donald O'Neil	10 Mechanic St Worcester MA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5 Douglas Sharleville	35 Spring St / 66 McCracken Rd	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6 Nicholas Grande	23 Ida Rd.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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SIGN-IN SHEET

Topic: Living By - Love Amendments
Date/Time: 3/29/17 7:30 p.m.

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SIGN-IN SHEET

Jessica Thomas - 110 Elm St.
Date/Time 3/27/17 7:45 pm

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SIGN-IN SHEET

Date/Time Thomas Shattuck 221 Riverth St.
3/27/17 8:00 p.m.

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