



Office of
THE PLANNING BOARD
272 Main Street
Townsend, Massachusetts 01469
978-597-1700 x 1722 * fax 978-597-1722

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TOWN OF TOWNSEND
TOWN CLERK

Stanley Vladyka, Chairman **Nicholas E. Thalheimer, Vice-Chairman**
Jeffrey R. Peduzzi, Clerk **Gerald B. Coughlin, Member** **Karen Coughlin, Associate Member**

Meeting Minutes
October 27, 2008 7:00 p.m.
Townsend Memorial Hall
BOS Chambers
272 Main Street, Townsend, MA 01469

I. PRELIMINARIES:

- 1.1 **Call the meeting to order** - At 7:03 S. Vladyka called the meeting to order.
- 1.2 **Roll call** - Present were Chairman, Stanley Vladyka, Vice-Chairman, Nicholas Thalheimer, Member, Jed Coughlin, Associate Member, Karen Coughlin and Administrative Assistant, Jeanne Hollows. Clerk, Jeff Peduzzi arrived at 7:10 p.m.
- 1.3 **Additions or deletions to Agenda** – None
- 1.4 **Acceptance of Minutes** – J. Coughlin motioned to approve the Minutes of October 6, 2008. N. Thalheimer seconded and all approved.

I. APPOINTMENTS:

2.1 **7:10 p.m. A N R - 85 & 81 Vinton Pond Rd., DiFrancesco** – Eugene DiFrancesco and Nancy Gibb presented a plan to subdivide their 8+ acre lot on 85 Vinton Pod Road in order to convey 3+ acres to their neighbor, Emily Norton. E. Norton stated she wanted to protect the land from development and preserve it as open space rather than see a build-able lot created next to her. A discussion ensued regarding the lack of a notation regarding the United States Geodetic Survey benchmark, as required in Planning Board Rules and Regulations §175-10 D. (10). J. Hollows advised the Board that the surveyor who prepared the plans told her he used the assumed Benchmark noted on the “As-Built Plan” on file with the Board of Health, as it would put a tremendous financial hardship upon an applicant for a surveyor to find the nearest benchmark that may be as much as 5 miles away. K. Coughlin stated she would be in favor of a waiver in this specific case as long as it is noted that this plan represents a lot line adjustment, but does not create another build-able lot. S. Vladyka motioned to waive the requirements of §175-10 D. (10) as such. J. Peduzzi seconded, stressing a stipulation that this exception is being made to adjust an interior property line for the purpose of preventing further development. S. Vladyka, N. Thalheimer, K. Coughlin, and J. Peduzzi voted in favor. J. Coughlin abstained.

2.2 **7:30 p.m. Village at Patriot, Reconvene Public Hearing** – At 7:42 N. Thalheimer re-convened the public hearing and introduced the Board. Owner, Peter DeCarolis explained that he does not have a final plan for the Board, as he is still waiting for Natural Heritage to make a determination on the existence of endangered species within an estimated habitat area; he was hoping to hear from them within a week and expects to receive a permit. He stated he is also waiting for a decision from the court on an appeal of a Conservation Commission decision. P. DeCarolis asked for a continuance of at least 8 weeks.

2.2.1 **Letter from Atty. Deschenes** - The Board reviewed a letter from Atty. Deschenes dated 10/14/08 asking the Board for continued patience by granting a continuance.

2.2.2 Letter - Heidi Messing RE: Bylaw interpretation, Street Jogs/ Minimum Centerline -

The Board reviewed a letter from abutter, Heidi Messing dated 08/28/08 questioning a verbal interpretation of Planning Board Rules and Regulations §175-16 B. (6) by Zoning Enforcement Officer, Rich Hanks requiring street jogs to have a centerline offset of at least 150 ft. J. Peduzzi read the letter in which H. Messing challenged the interpretation and stated she believes it refers to the distance allowed between the centerline of one road to the centerline of an intersecting road. She believes the centerline of Todd Rd., off Proctor Rd. might not be 150 ft. to the proposed new road, however it depends on where the centerline of the new road will be located. She would like to see a PK nail or a point marked with paint in the field, rather than just on a plan, and added the burden of proof is on the applicant.

2.2.1 Letter - Interpretation from Zoning Enforcement Agent, Rich Hanks – J. Peduzzi read a letter from Zoning Enforcement Agent, Rich Hanks dated 10/21/08 written in response to H. Messing's 08/28/08 letter. R. Hanks stated the Planning Board Rules and Regulations do not provide an interpretation of a "street jog," however Webster's dictionary describes a "jog" as a "slight turn," as in, "the road jogs to the left." He also stated that the terms "intersecting or "intersection" are not used within §175-16 B. (6), but are used in other sections of §175-16 B. R. Hanks added that the Planning Board is under no obligation to accept this opinion, as the section comes from the Planning Board Rules and Regulations.

The Board asked P. DeCarolis to have his surveyor indicate the distance of the proposed road to the centerline of Todd Rd. before they decide on their interpretation of §175-16 B. (6).

2.2.2 Minutes Review from last several discussions. – Received, not addressed.

2.2.3 Referral Comments Review – Noted, two letters stated above were added to the list.

Abutter, Julie Ward questioned why the proposal to build a subdivision has gone on for so many years. J. Peduzzi responded the applicant has been hit by every State Board imaginable and he owns a sensitive piece of land.

At 8:10 p.m. J. Coughlin motioned to continue the hearing to Jan. 5, 2009 at 8:00 p.m. S. Vladyka seconded and N. Thalheimer, J. Coughlin and S. Vladyka, voted in favor. K. Coughlin, and J. Peduzzi abstained.

2.3 8:15 p.m. Public Hearing – Zoning Amendment to extend Industrial District on Town Maps to include 365 Main St. – At 8:15 p.m. N. Thalheimer opened the hearing and introduced the Board. J. Peduzzi read the legal ad. Acting Co-Land Use Coordinator, Karen Chapman explained that the parcel pre-dates current zoning, with a building in existence since 1938, that has been used for commercial or industrial purposes ever since. The owner of the former Neilson & Bainbridge company has been actively trying to sell the property to no avail since it was vacated, and because more than two years have passed, the parcel lost its "grandfathered status," which protects a pre-existing, non-conforming structure or use, as outlined in Zoning By-law Article V, § 145-17 & 18. Town Counsel looked into options to allow another business to continue industrial use, but said there is no way around the by-law other than to propose an amendment to extend an adjacent Industrial District on the Town Maps to include that parcel. Three potential buyers had withdrawn their interest. The latest would have re-located a steel round bar cutting & distribution business employing 5-8 employees, but the buyer did not want to wait for a by-law amendment to pass.

Atty. George Watts attended the meeting and stated the owner of Neilson & Bainbridge asked that he be present in support of the by-law amendment.

K. Chapman stated that a business would need a Special Permit from the Zoning Board of Appeals, since the building size is over 25,000 sq. ft.

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Abutter, Bob Tumber brought out the following questions and concerns:

- he has lived across the street since 1960, has no problems if it would be strictly industrial and a special permit would be needed.
- he would not want to see the change extended any further.
- he asked if there is any way the Town could put a "light industrial" stipulation on it.
- he would want assurance it would be quiet, since the parcel is surrounded by homes.

J. Peduzzi pointed out that a Site Plan Review Special Permit from the Planning Board would also be needed and he would assure good oversight in that respect. For example, if there would be noise, they would require sound-proofing, and if there were any threats of odor, they would require air filtration. He added they would look out for the residents first.

J. Peduzzi read the Referral Notice comments. The Board of Health stated that all septic systems / water systems must be approved by the Board of Health for their intended use, as there are differing requirements for commercial and residential use. The Board of Selectmen expressed support for adopting the amendment. The Town Clerk's office stated the amendment is reasonable, as it returns the property to past zoning and encourages business.

In answer to a question, it was noted that all abutters within 300 feet were notified by mail of the public hearing to discuss the proposed amendment.

At 8:50 p.m. J. Peduzzi motioned to close the hearing. N. Thalheimer seconded and all voted in favor. Atty. Watts asked if the Board would give an indication of their support. A straw pole vote was taken with all in favor of passing the proposed amendment.

II. WORKSESSION:

3.1 Copy of letter from Town Counsel RE: Sprint Cell Tower Transfer of Lease & Easement Clarification – J. Hollows explained that a letter dated 10/06/08 from Atty. Laura Pawle, Town Counsel from Kopelman and Paige, was written in response to two questions: 1) was legal access to a cell tower ever granted to Sprint who is leasing land from the Town on Dudley Road? And, 2) could the Board of Selectmen sign to transfer the lease to a new cell phone company? Questions had been raised by Jesse Johnson of David Ross Associates while surveying adjacent property for the new library and senior center because no easement details were shown on the plan recorded at the Registry, and the cell tower is not actually located on a sketch included with recorded Decision for the cell tower special permit. Town Counsel confirmed that the access easement had been granted in a Lease Agreement, and recommended that the cell company prepare and record at its own expense a confirmatory Memorandum of Lease to correctly reflect an amended lease, as well as the Site Plan and Site Details showing an amended tower location as filed with the Planning Board on 10/17/03.

3.2 Note: Nov. 3rd Meeting will be held in Meeting Room 2 (due to Home Buyers Seminar in Selectmen's Chambers) – Noted by the Board.

3.3 Informational Meeting - Library/Senior Center, Thursday, 11/07/08, Congregational Church 7:00 p. m. – Received and noted by the Board.

3.4 Mass DHCD Downtown Initiative Program – 2009 Grant Application Available – S. Vladyka asked the Board to take home a notice regarding available Grant funds for review and comment.

3.5 ZBA Mandatory Referral- Atwood Elder Housing, Inc., Comprehensive Permit, 36 units – The Board reviewed a Mandatory Referral Notice form the ZBA for an application from Atwood Elder Housing, Inc., c/o RCAP /Solutions, to build 36 units under MGL Chapter 40B for the purpose of expanding elderly housing at Atwood Acres on Dudley Road. The Board reviewed a copy of an April 9,

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2007 letter written by J. Peduzzi on behalf of the Planning Board during the “Eligibility Phase,” at which time he stated such an expansion would be permitted under current zoning if the applicant applied for an Open Space Multi-Family Development (OSMD) under Zoning Bylaw 145-47, through the Planning the Board. S. Vladyka asked the Board to review the materials at home and J. Hollows to put it on the Nov. 24th Agenda for discussion and comments.

3.6 Peter Sampson’s Appointment to the Planning Board...but still a “no show” – J. Hollows advised the Board that she had sent Peter Sampson a letter and also called him regarding his failure to go to Town Clerk’s office to take an oath with respect to his appointment to the Planning Board on 08/04/08. P. Sampson stated he had taken on extra work, some in the evenings, so it would be difficult for him to attend night meetings. It was the consensus of the Board that since 70 days had elapsed, P. Sampson’s appointment was no longer valid.

IV. CORRESPONDENCE:

The following correspondence was received and noted by the Board:

- 4.1 Green Communities Act – to promote clean, renewable energy**
- 4.2 DHCD Letter & List of Subsidized Housing Inventory (SHI)**
- 4.3 U Mass Extension Fall Newsletter**
- 4.4 Notices from Townsend/Other Towns**

V. ADJOURNMENT:

At 9:05 p.m. N. Thalheimer motioned to adjourn the meeting. S. Vladyka seconded and all voted in favor.

**(Transcribed from notes)
Respectfully Submitted by**

**Jeanne Hollows
Planning Board Administrative Assistant**



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- 1.3 Additions or deletions to agenda
- 1.4 Acceptance of Minutes of October 6, 2008

II. APPOINTMENTS:

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- 2.2 7:30 p.m. Village @ Patriot, Reconvene Public Hearing
 - 2.2.1 Letter from Atty. Deschenes
 - 2.2.2 Letter - Heide Messing RE: Bylaw interpretation, Street Jogs/ Minimum Centerline
 - 2.2.3 Letter - Interpretation from Zoning Enforcement Agent, Rich Hanks
 - 2.2.4 Minutes Review from last several discussions.
 - 2.2.5 Referral Comments Review
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- 3.6 Peter Sampson's August 4th appointment to the Planning Board...but still a "no show"

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Next Meeting Date: Regular Meeting – Monday, November 3, 2008 at 7:00 p.m. IN ROOM 2