



Office of
ZONING BOARD OF APPEALS
272 Main Street
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William Cadogan, *Chair*
Darlene Sodano, *Vice-Chair*

Anthony Genova, *Member*
Craig Stevens, *Member*

Kelly Chambers, *Member*
John Giunta, *Associate member*

MEETING MINUTES
March 11, 2015 at 6:00 p.m.
Room 2

1.0 Preliminaries

- 1.1 Call the meeting to order:** Chairman Cadogan opened the meeting at 6:07pm.
- 1.2 Roll Call:** Present were members Bill Cadogan (BC), Darlene Sodano (DS), Tony Genova (TG), and Kelly Chambers (KC) and Associate Member John Giunta (JG). Absent was Member Craig Stevens. Also present was Administrative Assistant Karen Chapman.
- 1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting:** none.
- 1.4 Review & approve minutes: 2/10/15:** DS moved to approve the minutes as presented. KC seconded the motion, with all in favor.

2.0 Hearings/Appointments/Work Sessions:

- 2.1 Public Hearing – 13 Elm Street - Special Permit/Variance – Riverbank Development LLC Special Permit under Earth Excavation (§145-46) & Extensions and Alterations (§145-18). Variance from Land Space Requirements Table – side yard setback.**
BC appointed JG as a full voting member for the purposes of this hearing. BC opened the public hearing at 6:08pm. Present for the applicant was Stan Dillis (SD), Ducharme & Dillis and Gary Shepherd (GS), Deputy Fire Chief. BC read the legal notice. BC read the mandatory referrals, copies of which were given to the applicant. BC read letter of Building Commissioner regarding the application.

Documents submitted to the Board include:

1. Completed Zoning Board of Appeals application.
2. Letter from Stan Dillis, dated January 13, 2015, summarizing the project.
3. An 11x17 size engineered plan, dated January 12, 2015, illustrating the existing and proposed building location and associated setbacks.

SD gave a presentation of the project noting that the applicant was there for three reasons: 1) a special permit for earth excavation, which he believes is not needed because no material will be leaving the site except demolition debris; 2) a variance to reconstruct a fire station using the existing side yard setbacks of 5 feet for the existing building and demolished building which still has its foundation present; and 3) a special permit to rebuild a preexisting nonconforming structure.

DS asks why they need a variance if the existing structure is 5 feet from the property line and the existing remaining foundation is still there and is 5 feet from the property line as well. GS states that according to the bylaw, a structure includes slabs or anything affixed to the ground. DS asks why they need an earth excavation special permit if no material is leaving the site.

The Board considered the petition in light of the statutory criteria and Townsend Zoning Bylaw requirements, and found as follows:

Findings of Fact:

1. No abutters were present in opposition;
2. All Mandatory Referrals were received and read into the record;
3. The lot contains a concrete slab that is considered a structure pursuant to §145-5, definition of structure, and is therefore a preexisting nonconforming structure and does not require a variance to the side yard setback to rebuild.
4. There is no proposal to remove any earth from the site, therefore there is no requirement for a Special Permit under Zoning Bylaw §145-46.
5. Pursuant to Townsend Zoning Bylaw §145-65(F)(1)(a-g) Special Permits, the board found as follows:
 - a. Adequacy of the site in terms of the size for the proposed uses: the Board found the property is adequate for the proposed reconstruction and does not exceed lot coverage.
 - b. Suitability of the site for the proposed use: the Board found the property is suitable for the proposed use.
 - c. Impact on traffic flow and safety: the Board determined that traffic flow and safety would not be impacted more than the current conditions.
 - d. Impact on neighborhood visual character, including views and vistas: the Board determined that the proposed reconstruction will be an improvement to the neighborhood visual character.
 - e. Adequacy of method of sewage disposal, source of water and drainage; the Board determined these as adequate as the applicant will be obtaining a permit from the Board of Health.
 - f. Adequacy of utilities and other public services; the Board determined these to be adequate.
 - g. Impact on ground and surface water quality and other environmental and natural resource considerations; the Board determined that there would be no impact.

DS moved that pursuant to §145-65(F) of the Townsend Zoning Bylaw the proposed reconstruction will not have adverse effects, which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. TG seconded the motion, with a roll call vote as follows: TG-yes, DS-yes, BC-yes, KC-yes, JG-yes. The motion carried.

DS moved that based on the finding that no earth will be removed from the site, a Special Permit is not required pursuant to Zoning Bylaw §145-46. KC seconded the motion, with a roll call vote as follows: TG-yes, DS-yes, BC-yes, KC-yes, JG-yes. The motion carried.

DS moved that pursuant to §145-18 of the Townsend Zoning Bylaw, the proposed reconstruction shall not be more detrimental than the existing nonconforming structure to the neighborhood. KC seconded the motion, with a roll call vote as follows: TG-yes, DS-yes, BC-yes, KC-yes, JG-yes. The motion carried.

DS moved that based on the findings of fact a Special Permit is granted to Riverbank Development, LLC pursuant to Townsend Zoning Bylaw §§145-18 and 145-65 to rebuild a new fire department headquarters at 13 Elm Street with the condition that the building be built

according to plan. KC seconded the motion, with a roll call vote as follows: TG-yes, DS-yes, BC-yes, KC-yes, JG-yes. The motion carried.

2.2 Work Session – Decision for 19 Main Street Special Permit

The Board discussed the draft decision they worked on at the last meeting, including the stormwater design, the 250 gallon fuel tank and the proposed illuminated sign. The Board considered the application, draft decision and discussions and the Townsend Zoning Bylaw requirements, and found as follows:

FINDINGS OF FACT:

- A. All Mandatory Referrals were received and read into the record and copies given to the applicant.
- B. Pursuant to Townsend Zoning Bylaw §145-46(D)(1-7) for earth excavation, the Board found as follows:
 1. **Property lines, names and addresses of all abutters, including those across any way:** these requirements are present on the plans.
 2. **Existing contours at five-foot intervals in the area from which materials are to be excavated and in surrounding areas, or as determined appropriate:** existing contours present at one-foot intervals.
 3. **Natural features such as wetlands, the one-hundred-year floodplain, ground cover and surface and groundwater. Water table elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological makeup of the site:** wetlands, test pit locations and soil boring locations on the site are shown on the plans. The site is not in the 100-year floodplain according to FEMA maps. Twelve test borings were performed on the site on September 23- 24, 2014 in and around the proposed construction activities to a depth of 22 to 43 feet below the ground surface. Three of the borings had monitoring wells installed to measure stabilized groundwater levels which were determined to be 18.4 to 29 feet below ground elevation. The other borings found groundwater at a depth of 20-22 feet below grade elevation. Eleven test pits were performed in proposed and existing septic areas on October 1-3, 2014 to a depth between 6.5 and 10 feet below grade. No groundwater was observed. Ten test pits were performed in and around the athletic fields on August 14, and 15, 2014 to a depth between 5 and 7.5 feet; no groundwater was observed.
 4. **A topographical map showing drainage facilities, final grades, and proposed vegetation and trees:** Plans were provided showing the drainage facilities, final grades and proposed vegetation and trees.
 5. **Erosion and sediment control plan:** A small section on erosion and sediment control is provided in the application package narrative as well as a Draft Stormwater Pollution Prevention Plan in Appendix 10, which includes a section on Erosion and Sediment Controls.
 6. **A restoration plan including the amount and cost of proposed restoration materials:** the proposed project is the construction of a new high school and therefore the plans for the completed project show the final contours and plantings.
 7. **The location of monitoring wells which have been used to establish the high water table. The highest elevation of the water table shall be determined by observation wells monitored during the months of April and May. The observation wells' location shall be determined by the Board of Health or its designated agent. The information concerning height of water table shall be gathered before application for a special permit is made to the SPGA:** Twelve test borings were performed on the site on September 23- 24, 2014 in and around the proposed construction activities to a depth of 22 to 43 feet below the ground surface. Three of the borings had monitoring wells installed to measure stabilized groundwater levels which were determined to be 18.4 to 29 feet below ground elevation. The Board of Health was present for these activities.

- C. Pursuant to Zoning Bylaw §145-65(F)(1)(a-g) Special Permit for earth excavation, the board found as follows:
- a. **Adequacy of the site in terms of the size for the proposed uses:** the Board found the property is adequate to remove material from.
 - b. **Suitability of the site for the proposed use:** the Board found the site is suitable for the proposed use as earth excavation is part of the construction.
 - c. **Impact on traffic flow and safety:** truck traffic will be regulated pursuant to the conditions of the permit including consultation with the Chief of Police.
 - d. **Impact on neighborhood visual character, including views and vistas:** the board determined that the proposed earth excavation may affect visual character and views and vistas, but only during the construction and demolition phases. There will be no long term impact.
 - e. **Adequacy of method of sewage disposal, source of water and drainage:** the Board determined that sewage disposal and source of water is not applicable to earth excavation. The drainage will be controlled as stated in the application package and there will be no drainage off site during earth excavation.
 - f. **Adequacy of utilities and other public services:** not applicable to earth excavation.
 - g. **Impact on ground and surface water quality and other environmental and natural resource considerations:** the Board determined that the proposed earth excavation will have no impact regarding the environment and the activities will not excavate soil any closer to the water table than seven feet pursuant to §145-40, Aquifer Protection District.
- D. Pursuant to Townsend Zoning Bylaw §145-40(E), Aquifer Protection Overlay District, Special Permit uses, the Board found the following:
1. The applicant provided information concerning a means to isolate hazardous materials from the groundwater but this was unacceptable to the SPGA. [see E(3)(b) below]
 2. The applicant provided adequate information to prove that material will not be excavated closer than seven feet to groundwater.
- E. Pursuant to Townsend Zoning Bylaw §145-40(F), Aquifer Protection Overlay District, Special Permit uses, the Board found the following:
1. The intent of this bylaw as well as its specific criteria has been met by the applicant.
 2. Adequate information was provided by the applicant to allow the Board to determine that groundwater quality resulting from construction and operation of a regional high school will not fall below applicable federal or state standards for drinking and recreational water at the down-gradient property boundary.
 3. Submittals.
 - a) A complete and acceptable list of all chemicals, hazardous materials and hazardous waste was submitted and adequate methods of containment were demonstrated by the applicant. Material Safety Data Sheets for each chemical on the list was provided and copies will be delivered to the Hazardous Waste Coordinator (Fire Chief).
 - b) Information related to hazardous waste generation, storage and disposal was submitted by the applicant. A pH neutralization system was proposed for the materials from the sink drains of the science laboratories, but the Board feels that laboratory waste is potentially hazardous and a “tight tank” should be used to keep contaminants out of the aquifer.
 - c) Documentation for a pH neutralization system for the sink drains in the laboratories was provided. The amount of waste is <15,000 gallons per day, so does not require a wastewater treatment system according to State regulation.
- F. Pursuant to Townsend Zoning Bylaw §145-40(G), Aquifer Protection Overlay District, Design and Operation Guidelines, the Board found the following:
1. Safeguards. Sufficient information was provided to indicate protection against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as, but not limited to: spill control provisions in the vicinity of delivery

points; and secured storage areas for toxic or hazardous materials. The applicant is maintaining an existing 275-gallon above-ground storage tank to supply diesel fuel for four maintenance vehicles to be stored in the maintenance shed on the southeast corner of the property. The tank will be surrounded by bollards to prevent accidental damage and there will be a containment tray under the tank which has the capacity to hold 360 gallons.

2. Location. This section is not applicable.

3. Disposal. The applicant has proposed a pH neutralization system for the disposal of toxic and hazardous materials from the sink drains in the science laboratories, which is not acceptable to the Board in protecting the underlying aquifer.

4. Drainage. All storage and use of toxic or hazardous materials will be indoors in containment areas.

G. Pursuant to Townsend Zoning Bylaw §145-65(F)(1)(a-g), Special Permit Decision, the Board found as follows:

- a) **Adequacy of the site in terms of the size for the proposed uses:** The site is adequate for the proposed use which has been there since the 1950s, the lot is 49.42 acres;
- b) **Suitability of the site for the proposed use:** The site is suitable; schools are allowed in a residential district.
- c) **Impact on traffic flow and safety:** There is a potential improvement on traffic flow or safety; there are proposed changes to the flow of traffic on Rt. 119 as well as a one-way entrance and exit. New entrance/exit location will be directly opposite entrances/exits on the south side of Rt. 119.
- d) **Impact on neighborhood visual character, including views and vistas:** There is no impact on the neighborhood views and vistas.
- e) **Adequacy of method of sewage disposal, source of water and drainage:** Septic design will be approved by the Board of Health and source of water is being negotiated with the Water Department.
- f) **Adequacy of utilities and other public services:** Utilities and other public services are adequate;
- g) **Impact on ground and surface water quality and other environmental and natural resource considerations:** Impact on ground and surface water quality and other environmental and natural resource considerations are addressed under the findings of the Aquifer Protection Overlay District.(see D, E, and F above)

DS moved that pursuant to §145-65(F) of the Townsend Zoning Bylaw, the proposed use will not have adverse effects, which overbalance its' beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. KC seconded the motion with a roll call vote as follows: TG-yes, DS-yes, KC-yes, BC-yes. The motion passes.

DS moved to grant a Special Permit to the North Middlesex Regional School District based on the findings of fact and pursuant to Zoning Bylaw §§145-40, 145-46 and 145-65 for the proposed project to construct a new regional high school and remove approximately 7,600 cubic yards of material over the period of the project for the property located at 19 Main Street. The project shall be carried out according to the submitted plans and the following conditions:

CONDITIONS:

- A. Pursuant to §145-46H, inspection of the earth excavation operation may be made at any reasonable hour by an agent of the SPGA to determine if conditions of the special permit are being enforced.
- B. Pursuant to §145-46(I)(1-8):
 - 1.No excavation, other than excavation necessarily incidental to a valid building permit can be undertaken within 100 feet, measured horizontally, of an existing public way or an adjacent property line.

- 2.No earth or gravel shall be excavated closer to the maximum high water table than seven feet.
 - 3.All topsoil and subsoil stripped from operation areas shall be stockpiled and used in restoring the area.
 - 4.Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within 60 days after the special permit has expired or been revoked.
 - 5.Hours of operation shall be between 8:00 a.m. and 4:30 p.m. on weekdays only. Trucks may enter and leave the premises only within such hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load.
 - 6.Trucking routes and methods shall be subject to approval of the Chief of Police insofar as he may regulate any industrial trucking.
 - 7.All access roads leading to public ways shall be treated or paved with suitable material to reduce dust and mud for a distance of 200 feet back from the way. The operator shall clean up any spillage on public ways.
 - 8.Access roads shall intersect a public way at right angles for a distance of no less than 50 feet and shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view. All access roads shall have at least 250 feet visibility in each travel lane entering a state numbered or maintained highway and at least 150 feet visibility on all other streets. Access roads shall not drain directly onto public ways.
- C. Pursuant to §145-46(J): Restoration shall be carried out according to the plans submitted, conditions of the special permit, and the following minimum conditions:
1. Restoration shall be carried on simultaneously with excavation (where applicable), so that when any five acres have been cleared and stumped and five acres are in active mining operation. At least five acres shall be restored before work commences (including building haul roads) on the next contiguous five acres (where applicable). Final restoration work shall be completed by the time the occupancy permit is granted.
 2. No slope shall be steeper than 2:1 (two feet horizontal to one foot vertical) (50%); 4:1 (four feet horizontal to one foot vertical) is preferred for erosion control and shall be required in sensitive areas.
 3. Retained subsoil and topsoil shall be spread over the disturbed area and treated with appropriate fertilizer or other suitable material and seeded with an appropriate mixture of grass or legume mixture as prescribed by the Conservation District, Soil Conservation Service, United States Department of Agriculture and as determined appropriate by the SPGA after consultation with the above-noted agencies. Trees or shrubs of prescribed species will be planted to provide screening and reduce erosion during the establishment period.
 4. Unless the special permit conditions expressly require alteration of drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow and the area of drainage to any one point is not increased.
 5. Natural vegetation shall be left and maintained on undisturbed land for screening, noise reduction and erosion control purposes.
- D. A tight tank shall be installed to collect hazardous materials from the sink drains in the science laboratories to prevent contamination of the underlying aquifer.
- E. Pursuant to §145-40E(1), Special Permit Uses in the Aquifer Protection Overlay District, the applicant shall obtain an environmental insurance policy for the 275-gallon diesel fuel tank for a minimum of one million dollars, with the Town of Townsend named as a loss payee.
- F. The Special Permit shall be valid for three years from the date of this decision.

KC seconded the motion, with a roll call vote as follows: TG-yes, DS-yes, KC-yes, BC-yes. The motion passes and the permit is granted.

3.0 General Business:

3.1 Discuss Turnpike Village Occupancy Permit: The Board discussed the Building Commissioner's Letter to the ZBA saying he issued a Temporary Occupancy Permit because all of the conditions had been met except for the landscape planting which cannot be completed until spring. DS moved to allow the temporary occupancy until June 30, 2015, at which time all outstanding permit conditions need to be completed. KC seconded the motion with all in favor. Karen will send letter to Rich Hanks with that statement.

3.2 Mandatory Referral from PB: 13 Elm Street Site Plan Review: BC wrote on the referral "It will be cool".

4.0 Correspondence:

4.1 Letter from Building Commissioner re: Turnpike Village: noted.

4.2 Decision from PB re: 19 Main Street Site Plan Review: noted.

4.3 Letter from Rob Templeton re: conditions of new high school special permit: noted.

4.4 Letter from Bldg. Comm. to Alan De Hann, SMMA re: 19 Main Street Masonry Acid Wash: noted.

4.5 Bulletin from Attorney General through Town Clerk: Town Meeting Articles approved: noted.

5.0 Schedule

Next meeting: April 29, 2015 @ 6:00pm

6.0 Adjournment

KC moved to adjourn at 8:15pm. DS seconded with all in favor.

Minutes taken and transcribed by: Karen Chapman

Any materials used in this meeting can be found in the street files of the Town Clerk and Zoning Board offices.