



Office of
ZONING BOARD OF APPEALS

272 Main Street
Townsend, Massachusetts 01469
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William Cadogan, *Chair*
Darlene Sodano, *Vice-Chair*

Kelly Chambers, *Clerk*
Craig Stevens, *Member*

Anthony Genova, *Member*
John Giunta, *Associate member*

MEETING Minutes

June 29, 2016 at 6:00 p.m.

Room 2, Town Hall, Townsend, MA

1.0 Preliminaries

- 1.1 Call the meeting to order: WC called the meeting to order at 6:06PM.
- 1.2 Roll Call: Anthony Genova (AG), Darlene Sodano (DS), William Cadogan (WC), Craig Stevens (CS). Absent were: Kelly Chambers and John Giunta. Karen Chapman, Land Use Coordinator, took minutes.
- 1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting: None.
- 1.4 Review & approve minutes: 11/19/15, 4/27/16, 5/18/16, 6/8/16: Tabled.

2.0 Hearings/Appointments/Work Sessions:

- 2.1 **6:00pm Public Hearing – Off Depot Street – Dana King & Kevin Smith - §§145-40, 145-46 & 145-65** – The applicant is requesting a Special Permit to excavate gravel in the Aquifer Protection District.

WC opened the public hearing at 6:07PM and read the legal notice and mandatory referrals. Stan Dillis and Kevin Smith were present.

Stan Dillis gave a presentation noting that 2000 cubic yard of material will be removed from the side and then it will be regraded. The deepest cut will be the detention basin.

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:** 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 on the site are shown and there was no groundwater detected to a depth of 168 inches.
4. **A topographical map showing drainage facilities, final grades, and proposed vegetation and trees:** a plan with proposed final contours was submitted, as well as final grades of the site. No vegetation is proposed.
5. **Erosion and sediment control plan:** this requirement is satisfied on Sheet 5 of the Plan set.
6. **A restoration plan including the amount and cost of proposed restoration materials:** No restoration is needed as there will be construction of storage units.

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:** Two test holes were drilled and there was no groundwater at a depth of 168 inches. No extensive excavation is occurring.

Pursuant to Zoning Bylaw §145-65(F)(1)(a-g) Special Permit for earth removal, 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 as it's a commercial use in a commercial district.
- b. **Suitability of the site for the proposed use:** the Board found the site is suitable for the proposed use.
- c. **Impact on traffic flow and safety:** There will be a negligible impact on traffic.
- d. **Impact on neighborhood visual character, including views and vistas:** the board determined that the proposed project will be an upgrade to the neighborhood.
- e. **Adequacy of method of sewage disposal, source of water and drainage:** the Board determined there will be no water or septic and the stormwater methods are adequate, with no runoff moving off the site.
- f. **Adequacy of utilities and other public services:** the Board determined this not applicable.
- g. **Impact on ground and surface water quality and other environmental and natural resource considerations:** the Board determined that the proposed project 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.

Darlene Sodano 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. Anthony Genova seconded the motion with a roll call vote as follows:

	Anthony Genova	yes
Darlene Sodano	yes	
Craig Stevens	yes	
William Cadogan	yes.	The motion passes.

Darlene Sodano moved to grant a Special Permit to Dana King and Kevin Smith based on the findings of fact and pursuant to Zoning Bylaw §§145-46 and 145-65 for the proposed project to remove approximately 300 cubic yards of material from the property Off Depot Street. The project shall be carried out according to the submitted plans and the following conditions:

- A. Pursuant to §145-46H, inspection of the 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 or subdivision approval can be undertaken within 10 (ten) 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. Applicant may remove and deliver agricultural products from and to the site as has been customary in the past.
- (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. The Special Permit shall be valid for two years from the date of this decision.

Anthony Genova seconded the motion, with a roll call vote as follows:

Anthony Genova	yes
Darlene Sodano	yes
Craig Stevens	yes
William Cadogan	yes. The motion passes.

2.2 6:30pm Public Hearing – 40-56 Fitchburg Road – Noor Construction/Pine Ridge Condo Assn. - §§145-18, 145-64, & 145-65 – The applicant is requesting an Appeal and/or Special Permit to construct a garage for a preexisting nonconforming use.

WC opened the Public Hearing at 6:50PM.

DS moved to continue the Public Hearing to a date agreeable to the applicant who didn't show up. CS seconded. All in Favor (AIF).

2.3 7:00pm Public Hearing – 62 Fitchburg Road - Harry Marshall - §§145-36 & 145-65. The applicant is requesting a Special Permit for an accessory apartment.

BC opened the Public Hearing at 7:00PM, read the legal notice and mandatory referrals. Harry Marshall, his daughter and son-in-law were present. They want add an accessory apartment for Marshall's in-laws.

Facts:

- 1. A family member of the principal residence will reside in the accessory apartment.
- 2. Pursuant to Townsend Zoning Bylaw §145-36(C)(1-7), Accessory Apartments in a Residential District, the Board found the following:
 - a. The proposed floor area of the accessory apartment is 30% of the floor area of the principal residence and the apartment combined, which is below the 35% maximum allowance for an accessory apartment.
 - b. The applicant is working with the Board of Health to improve the septic system to accommodate the accessory apartment.

- c. Adequate provision has been made for ingress and egress.
 - d. The construction and occupancy of the accessory apartment is not detrimental to the neighborhood in which the lot is located.
 - e. The lot contains 2.3 acres and exceeds the one acre requirement.
 - f. Adequate provision has been made for off-street parking.
3. There is no other apartment on the lot on which the accessory apartment is located

In terms of Townsend Zoning Bylaw §145-65(F)(1)(a-g) the Board found as follows:

- a). The lot is adequate in terms of size for the proposed use;
- b). The lot is zoned residential and the accessory apartment is a residential use;
- c). There is no impact on traffic flow or safety;
- d). There is no impact on neighborhood visual character, including views and vistas;
- e). The method of sewage disposal; source of water and drainage are adequate;
- f). Utilities and other public services are adequate;
- g). There is no discernable impact on ground and surface water quality and other environmental and natural resource considerations.

Darlene Sodano moved that based on the above findings, the proposed use as an accessory apartment will not have adverse effects which would overbalance the beneficial effects on the neighborhood or the town, in view of particular characteristics of the site. Anthony Genova seconded the motion and a roll call vote was taken as follows: Craig Stevens-yes, William Cadogan-yes, Anthony Genova-yes, Darlene Sodano-yes. The motion carried.

Darlene Sodano moved to grant a Special Permit to Harry A. Marshall and Teresa Marshall to construct and occupy an accessory apartment at 62 Fitchburg Road pursuant to Zoning Bylaw §§145-36 and 145-65 with the following conditions:

- 1. The Special Permit must be renewed in five years, June 2021, according to the bylaw.
- 2. The applicant agrees to abide by the terms of the Townsend Housing Authority or Local Housing Agency or Partnership program to insure moderate income occupancy of the apartment thus created for a period of not less than five (5) years. The Townsend Housing Authority or Local Housing Agency or Partnership shall permit deferral of the program if the homeowner wishes to accommodate initially a family member or members. For the purposes of §145-36(E) of the Townsend Zoning Bylaw, family member shall be defined as one of the blood, step or adopted relatives of the home owner or spouse as follows: Mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather and/or their spouses.

Anthony Genova seconded the motion, with a roll call vote as follows: Craig Stevens-yes, William Cadogan-yes, Anthony Genova-yes, Darlene Sodano-yes. The motion carried

3.0

3.1 General Business:

- 3.1** Discuss and vote on refunding \$300 application fee to Kelly Kelly re: Sign Appeal
DS moved to refund \$300 to Kelly Kelly. CS seconded. Roll call vote as follows: Craig Stevens-yes, William Cadogan-yes, Anthony Genova-yes, Darlene Sodano-yes. The motion carried

4.0 Correspondence:

5.0 Schedule

Next meeting: None scheduled

6.0 Adjournment

AG moved to adjourn at 7:24PM. CS seconded. AIF.

Respectfully submitted by Michele Decoteau from Karen Chapmans's written notes.