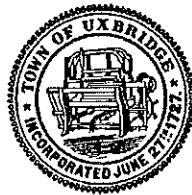


James Smith, Chair
Barry Desruisseaux, Vice Chair/Clerk
Joseph Leonardo, Member
Justin Piccirillo, Member
Eli Laverdiere, Member
Barry Hauck, Alternate Member



Uxbridge Town Hall
21 South Main Street, Room 205
Uxbridge, MA 01569
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JUN 28 '18 AM 10:55

**PLANNING BOARD MEETING MINUTES
WEDNESDAY
February 28, 2018**

Received by
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Town Clerk

Minutes of the Uxbridge Planning Board regularly scheduled meeting on **Wednesday, February 28, 2018, at 7:00 P.M.** in the **Board of Selectmen Meeting Room, 21 South Main Street, Uxbridge, MA.**

Present: Chair, James Smith; Vice Chair/Clerk, Barry Desruisseaux; Member, Justin Piccirillo; Member Eli Laverdiere; Alternate Member, Barry Hauck. Also present: Administrative Assistant, Lynn Marchand

Absent: Member, Joseph Leonardo

I. CALL TO ORDER

The Chair called the meeting to order. The new Town Manager, Angie Ellison, introduced herself to the Board and members of the public that were present. She extended her appreciation for the volunteers on the Board and the work that they do. She stated that she had an open door policy whenever assistance was needed.

II. PUBLIC HEARINGS

Continued from January 24, 2018; PH opened 4/12/17

1. **FY17-27 Earth Removal Application - The Owner/Applicant, Immanuel Corp.,** is seeking an **Earth Removal Permit** to remove 12,000 cubic yards of sand and gravel at **0 Millville Rd.** The property is shown on the Town of Uxbridge Assessor's Map 46 Parcel 2079. The title to said land is recorded in the Worcester District Registry of Deeds Book 4457 Page 201; Property is located in Residential-C Zone. Applicant's representative at a previous meeting asked for a continuance and submitted an extension request letter.

MOTION I: to continue the earth removal permit application for Millville Rd. made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0

**Mr. Piccirillo requested that Agenda item 5c, under "Business" be taken out of order. The Chair asked for a motion.*

MOTION I: to take it [Agenda item 5c, under "Business"] out of order made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0

** Taken after agenda item 5c, under "Business"*

Continued from January 24, 2018; PH opened 12-6-17

2. **FY18-04 Special Permit- The Owners of record, Newell Road Associates/James D. Schwartz, Uxbridge Realty Dev Tr/George Kurzon, and Blackstone Trust/Joel Kurzon, and the Applicant, ForeFront Power, LLC,** are seeking a **Special Permit** to install a four (4) MW AC PV solar electricity generating project. Property is located at **0 Depot St., 0 South Main St., & 25 Newell Rd., Uxbridge, MA.** The property is shown on the Town of Uxbridge Assessor's Maps 25, Parcels 2065, 4434. The title to said land is recorded in the Worcester District Registry of Deeds Books 16649 & 14490, Pages 142 & 163; Property is located in an Industrial Zone, Groundwater Protection Overlay District, and Agricultural Zone.
 - a. Review reply comments to: Graves Eng., BOH, DPW
 - b. Easement letter
 - c. Revised Plans
 - d. Revised Stormwater

The applicant's representative asked the Board for any feedback from Town Counsel regarding the easement rights/access. The Chair stated that they had just received it and had not yet reviewed the



PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

comments. The Board reviewed Town Counsel's remarks and asked the applicant for documentation from the Railroad showing that access has been granted to the applicant for the proposed usage of the property. Discussion was had regarding emergency access, frontage off the right of way, and rights of access through the easement. The Board asked for a plan showing a satellite view of the property and surrounding properties, including S. Main St. and the railroad.

MOTION I: to continue the Special Permit for solar, Forefront Power, made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0

3. **FY18-08, Special Permit/Retreat Lot** – The applicant/owner of record, **Uxbridge Woods Realty Trust/Mark Foss, Trustee**, is seeking approval for a **Special Permit** to construct a single-family dwelling pursuant to Uxbridge Zoning Bylaws Section 400-32 – Retreat Lots. Property is located on **Eber Taft Rd. & Pond St.** The property is shown on the Town of Uxbridge Assessor's Map 33, A.P.O. Parcel 3073. The title to said land is recorded in the Worcester District Registry of Deeds Books 35868 & 34773, Pages 250 & 252 and Pages 7 & 9 (proposed Lot 11). Property is located in an Agricultural zoning district.

Representing the applicant, Mr. Stephen O'Connell of Andrews Survey & Engineering stated that proposed Lot 11 was on the unimproved portion of Eber Taft Road and stated that the applicant, based on prior comments from the Board, intends to improve that section of road. He stated they were seeking special permit approval for the proposed retreat lot so the applicant would know that the Lot is a valid Lot approved by Special Permit by the Planning Board but stated the retreat lot would not be created, the metes and bounds defined until an ANR Plan was presented to the Board for endorsement. He described it as Step 1 and then at a future date in the near future, said they would seek an ANR endorsement and record the Mylar but not until conditions were met including payment of the back taxes on the property. Discussion was had the circumstances of the agreement with the owner and certain things that have not yet taken place such as property cleanup and taxes being paid.

Mr. Mark Foss, the owner/applicant gave an overview of the historical details of the settlement discussions and agreement as well as reading portions of the settlement agreement. He stated the requirements were enforceable under the settlement agreement even though it was not referenced on the Plan. He stated the Title examiners would look at it as an encumbrance but stated he, the applicant, was not looking to avoid compliance with their obligations. Mr. Piccirillo stated the wording of the solid waste clean-up component obligated the trust but the obligation did not follow the property. Mr. Foss reiterated that he was not looking to avoid the obligation. Mr. Smith stated the deal was made with the previous Town Manager and signed through the Selectmen did not obligate the Planning Board to agree to those terms due to Open Meeting Law and having never agreed to those terms. He further stated they were trying to follow their normal Rules & Regulations. He viewed the process as having already granted ANR's, the taxes should be paid, a clean-up plan, and then discussion could be had regarding the Special Permits for the retreat lots but that the Board is not obligated to grant the Special Permits nor ANR's on unimproved portions of the road. Mr. Smith stated the Board would work with him and do everything they are supposed to within the scope of the Rules & Regulations and there should be a comfortableness that if the applicant meets their obligations [improving the road, cleaning up the tires, paying the back taxes] then the Board will give exactly what it has to give by right.

Mr. Foss expressed concern regarding spending that amount of money without knowing for certain the outcome. Mr. Smith stated that is what developers do, build the road, and seek approvals. Mr. Desruisseaux expressed concern about granting Special Permits for Retreat Lots without ANR's showing the configuration and without the road being improved. Mr. O'Connell stated the ANR's could be denied if there was no access on an improved public way to current standards. Mr. Foss and Mr. O'Connell indicated they would seek ANR's without improving the public way but that the Building Dept. could withhold issuing building permits until the road was improved. He also stated that Conditions could be added to the Special Permits for the Retreat Lots.

One abutter asked about the Planning Board not notifying abutters for the earlier approval by the Planning Board. Mr. Desruisseaux stated it was for an ANR [which do not require a public hearing or abutter notification] The abutter stated there were existing issues with the street: the narrowness of the street and worsened in the winter, blind spots at the entrance of the street, and the increased safety



PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

concern with the addition of more traffic/residences, drainage not being finished, and any proposed upgrades to address the existing issues and how additions will affect the existing conditions such as flooding/drainage. The abutter expressed concern about the existing cul-de-sac and if it would be left when the rest of the road was improved. The Board stated the Fire Chief had wanted it left. Discussion was had regarding the May vote by the Planning Board and discussion regarding widening the entrance and moving the pole. Another abutter expressed concern about the increased traffic, safety, blind spot at the entrance, only enough room for one car, stated part of the cul-de-sac was his property and the Town just had an easement. He stated he wanted his property back as a buffer zone. Several other abutters expressed similar concerns with safety and the existing road being damaged from the excavator trucks/equipment during construction.

The Chair opened up the Public Hearings for FY18-09 & FY18-10 stating there were the same concerns, and the same properties.

4. **FY18-09, Special Permit/Retreat Lot** – The applicant/owner of record, **Uxbridge Woods Realty Trust/Mark Foss, Trustee**, is seeking approval for a **Special Permit** to construct a single-family dwelling pursuant to Uxbridge Zoning Bylaws Section 400-32 – Retreat Lots. Property is located on **Eber Taft Rd. & Pond St.** The property is shown on the Town of Uxbridge Assessor's Map 33, A.P.O. Parcel 1485. The title to said land is recorded in the Worcester District Registry of Deeds Books 35868 & 34773, Pages 250 & 252 and Pages 7 & 9 (proposed Lot 9). Property is located in an Agricultural zoning district.
5. **FY18-10, Special Permit/Retreat Lot** – The applicant/owner of record, **Uxbridge Woods Realty Trust/Mark Foss, Trustee**, is seeking approval for a **Special Permit** to construct a single-family dwelling pursuant to Uxbridge Zoning Bylaws Section 400-32 – Retreat Lots. Property is located 1on **Eber Taft Rd. & Pond St.** The property is shown on the Town of Uxbridge Assessor's Map 33, A.P.O. Parcel 1541. The title to said land is recorded in the Worcester District Registry of Deeds Books 35868 & 34773, Pages 250 & 252 and Pages 7 & 9 (proposed Lot 1). Property is located in an Agricultural zoning district.

MOTION I: to continue the public hearings on these three (for FY18-08, 09, & 10), made by Mr. Smith. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0

IV. BUSINESS

Mr. Laverdiere recused himself.

PH opened 3/22/17; PH closed 6/14/17

1. **FY17-22 Special Permit Modification Application** - The Applicant **Eli Laverdiere & Owners Paul & Kathleen Laverdiere**, are seeking approval for a proposed subdivision on a plan entitled Road Acceptance Plan dated August 11, 2015. Property is located on **15, 16 & 19 Storey Lane**. The property is shown on the Town of Uxbridge Assessor's Map 11, Parcels 1083, 1825, 1818. The title to said land is recorded in the Worcester District Registry of Deeds Book 38887 Pages 369, 367, & 371; Property is located in an Agriculture Zone.

The Planning Board reviewed the draft decision for Storey Lane. Discussion was had regarding the bond amount and the road construction details. Graves Engineering included additional construction details in their bond estimate based on the revised Plan and on DPW's comments on the decision draft. The Board reviewed Graves comments and estimate.

After discussion the Board requested that a letter be sent to Graves asking for a revision based on just the Plan minus DPW's recommendation and that the revision be done under the previous fee charged to the applicant. The Board indicated that it was at their discretion what is to be included in reviews and bond recommendations.

2. **Cobbler's Knoll, discussion and any actions related thereto.**
 - a. **Covenant/Bond discussion**



PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

- b. Open Space Agreement discussion
- c. Graves Engineering bond recommendation

Mr. Stephen O'Connell of Andrews Survey & Engineering stated that the applicant had provided a 2 year bond for \$1,110,102.00. He reviewed the bond details including that it did not say "2 years" on it, for Phase 1. He stated the Town would be notified at the beginning of year 3 should the bond premium not be renewed. Mr. O'Connell stated that he and the PB admin. had tried, unsuccessfully, to get a review of the bond by the Town Attorney, through the Town Manager's office but did not receive a response from the TM's office after multiple requests.

Mr. Smith and Mr. Piccirillo expressed his concern that there were no dates listed on the bond and that the notification might come too late. Mr. Smith stated with an insurance bond, a date is needed. The Board reviewed the relationship between the Covenant and the Bond and bond language. Mr. Hauck asked if the Bond was event driven or time driven. Mr. Smith stated it was both; has to be completed and a time constraint with the Certificate of Approval. He explained if it was not completed in the specified time frame that the applicant would need to come back to the Board to ask for an extension and to show good cause as to why it was not yet completed. He further stated if it became obvious that the project was abandoned or that no further work was going to be performed, the Board would have to seek to pull the Bond. Mr. O'Connell stated he would work with the PB Admin. to get the Bond amended.

The Chairman called a 5 minute recess.

Representing Friends of Scenic Chocolog Road Inc., a non-profit corporation in Massachusetts Mr. Michael Healy addressed the Board. He stated that it was formed to take possession of the open space land and create a multi-use, non-motorized, passive recreational area; walking paths, equestrian, cross-country skiing, mountain biking, and dog walking. He stated they were applying for grants and anticipated a recreational trails program grant in August and have also had donated services. He stated the developer had agreed to donate the parking area and to do a wetlands crossing bridge. He said that Mr. O'Connell had volunteered to donate \$2,000 in engineering work for the project. Mr. O'Connell stated the developer had provided him confirmation that he would convey the open space to the non-profit "as soon as that needs to happen". He stated that they would need concurrence from the Planning Board for the conveyance. The Board reviewed a copy of the proposed Open Space agreement and the Bylaw.

MOTION I: That the Planning Board concur with the transfer of open space to Friends of Scenic Chocolog Road Incorporated for the Cobbler's Knoll subdivision made by Mr. Piccirillo. Motion was seconded by Mr. Desruisseaux. Motion carried 5-0-0.

Mr. Desruisseaux recused himself.

3. Forest Glen Estates –discussion regarding a construction change
a. Plan

Mr. O'Connell of Andrews Engineering, along with the new owners, John O'Hern and John O'Hern Sr., stated they were seeking recognition of minor Plan changes. Mr. O'Connell stated that upon a discussion with the Building Inspector regarding building permits for 4 units that he stated any changes to the Plan would require them to go back before the Planning Board and would need affirmation from the Planning Board that the project would be in conformance with the Special Permit. Mr. O'Connell reviewed the Plan showing the existing configurations in red from the approved Plan and the proposed changes in black. He stated they were adding to the features but not changing the roadway, utilities, grading, or stormwater changes. Mr. O'Connell asked for a vote from the Planning Board that the changes are minor, would be deemed construction related changes, and no modification to the Special Permit would be necessary. He stated Mr. O'Hern Sr. is the architect and his son is the builder.

MOTION I: that the Planning Board consider the proposed changes to the layout of Forest Glen Estates to be minor and not require any further review made by Mr. Piccirillo. Motion was seconded by Mr. Laverdiere. Motion carried 4-0-0.



PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

Mr. Desruisseaux returned to the meeting.

Mr. Hauck recused himself.

4. FY18-11, Hyde Park Circle, ANR, 4 lots.

Mr. Jeff Stefanick of Guerriere and Halnon presented the Board with an ANR Plan to take 3 existing lots and to create 4 lots from them; 8D, 10C, 10D, & 10E.

The Chair stated that the road was bonded and the Lots had been released so they can reconfigure lot lines as long as they meeting the zoning requirements.

MOTION I: to endorse the ANR for Uxbridge Multi-Family Realty LLC for Hyde Park Circle made by Mr. Piccirillo. Motion was seconded by Mr. Desruisseaux. Motion carried 4-0-0.

The Board the signed the Mylar.

Mr. Hauck returned to the meeting.

5. Planning Board proposed sponsored 2018 SATM Warrant Articles –discussion and any actions related thereto. **full text is available in the Land Use Office*

- a. Acceptance of M.G.L. Chapter 40, Section 58:** to see if the Town will vote to accept the provisions of M.G.L. Chapter 40, Section 58, to establish a municipal charges lien for the purpose of unpaid engineering review fees.

The Board discussed the pros and cons of the Article and the details of how it would work. It was stated that a situation had almost occurred and at that time Town Counsel suggested pursuing the Acceptance of MGL Chapter 40, Section 58. Mr. Desruisseaux and Mr. Smith stated that they saw issues with this as an applicant could incur engineering fees, walk away from the project, and the property owner would have the lien placed on their property that someone else incurred. The Board discussed taking up the Article at a later date after having legal counsel address some of the concerns brought up. Mr. Smith stated that currently the Admin. to the Board tracked all engineering review deposits and would not authorize, on behalf of the Planning Board, reviews by Graves Engineering, unless funds were available upfront from the applicant. The Board decided not to sponsor the proposed Article.

- b. Amendment to Uxbridge Zoning Bylaw - §400-32, Retreat Lots:** Amend conditions relative to Retreat Lots

The Board discussed the issues that have come up with projects utilizing the retreat lot bylaw in a way that was not intended when the Bylaw was created, specifically, gerrymandering around the non-contiguous retreat lots requirement. He stated that adding stricter minimal distance between the retreat lots would help prevent that from occurring. Mr. Desruisseaux stated it could prevent some property owners from being able to utilize the retreat lot bylaw due to an abutting property owner having already created one on their property.

MOTION I: that the Planning Board sponsor the Article to amend conditions relative to Retreat Lots made by Mr. Piccirillo. Motion was seconded by Mr. Laverdiere. Motion carried 4-0-1. Mr. Desruisseaux abstained.

**taken out of order (at the beginning of "Public Hearings")*

- c. Amendment to Uxbridge Zoning Bylaw –Appendix A –Table of Use Regulations:** Inclusion of Warehouse & Distribution in the Industrial Zone.

Mr. Russell Dion, representing Campanelli Companies from Braintree, Mass. along with Mr. Robert DeMarco and Attorney Frank Marinelli, requested that the Planning Board sponsor a Warrant Article amending the UZBL, Appendix A, Table of Use Regulations, to include



**PLANNING BOARD MEETING MINUTES
February 28, 2018 continued**

warehouse and distribution in the industrial zone. Mr. Dion gave a brief overview of the business park project and timeline on the approximate 100 acres of land.

Attorney Marinelli gave the Board a brief history of the Campanelli developments stating within the region they have developed over a dozen business parks, investing tens of millions of dollars, with a fiscal benefit to the Town and with the degree of municipal services being low.

He stated that in order to satisfy the investors, that the category of use within the zone needs to be satisfied.

The Board discussed the language of the proposed bylaw amendment.

MOTION I: for the Planning Board to sponsor the amended Table of Uses for warehouse and distribution in industrial and, if the Selectmen's bylaw passes for A & B, made by Mr. Desruisseaux. Motion was seconded by Mr. Smith. Motion carried 5-0-0

Mr. DeMarco requested that Attorney Marinelli speak to Town Counsel about the most efficient and best way to navigate going forward, with regard to zoning and the warrant article. The Chair stated the Board had no issue with it providing authorization from the Town Manager for the attorneys to speak. Attorney Marinelli stated he wanted to make sure that a future tenant would be able to occupy the space within the scope of the bylaw.

- d. Zoning Bylaw Amendment Definitions (Green Community):** To see if the Town will vote to amend the Definitions

Board of Health member, Dr. Tapscott and the Board of Health Agent, Kristin Black spoke to the Board regarding the proposed Articles that are necessary for Uxbridge to become a Green Community. She stated there were 3 Articles that were being proposed. She reviewed the benefits of becoming a green community including State grant money.

- e. Zoning Bylaw Amendment/Renewable or Alternative Energy Facilities (Green Community):** To see if the Town will vote with regard to renewable or alternative energy facilities.

The Board of Health agent discussed the criteria and reviewed the proposed bylaw and that it would be in the Industrial Zone. Dr. Tapscott reviewed the revised changes in the language of the proposed bylaw amendment and the by-right use component and the expedited permitting process.

MOTION I: that the Planning Board sponsor the proposed Article bylaw amendment Article X Definitions Green Community and the other proposed Zoning Bylaw Amendment/Renewable or Alternative Energy Facilities Green Community made by Mr. Smith. Motion was seconded by Mr. Piccirillo who stated they would amend it on the floor if/as needed. Motion carried 5-0-0

- 6. Planning Board proposed co-sponsored (with Board of Health) 2018 SATM Warrant Articles – discussion and any actions related thereto. **full text is available in the Land Use Office and the Board of Health Office.***

- a. Adoption of the Stretch Code:** entitled "Stretch Energy Code"

The Board of Health agent discussed the Stretch Energy Code. The Board asked for clarification of why the Articles were separated. The BOH agent stated that is how other Towns have structured their Warrant Articles to become a Green Community including co-sponsorship for the adoption of the Stretch Code. Discussion was had regarding combining the Articles and the ability to amend the language as needed.

MOTION I: have the Planning Board co-sponsor of the so-called Stretch Code, which is Appendix 115.AA of the Mass Building Code 780 CMR with the Board of Health made by



PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

Mr. Smith. Motion was seconded by Mr. Desruisseaux who stated they would amend it on the floor if/as needed. Motion carried 5-0-0

7. 183/197 Providence St. –stormwater issue (Dr. Tapscott)

Dr. Tapscott explained how he was walking and observed the stormwater runoff after a rainstorm. He showed the Board the pictures he had taken. The Board questioned if the drainage pattern was already in existence or if it was worsened by the introduction of the solar panels. The Board stated there was no bond in place and there was not anything they could do as the project was completed. No action taken.

8. Master Planning -passed over

V. MINUTES/MAIL/INVOICES

1. 01/10/18 Meeting Minutes -passed over
2. 01/24/18 Meeting Minutes -passed over
3. Invoices (over \$600) were signed by the Board.

VI. ANY OTHER BUSINESS, which may lawfully come before the Board.

VII. ADJOURNMENT: NEXT PLANNING BOARD MEETING, WEDNESDAY, *March 14, 2018.*

MOTION I: to adjourn the meeting made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0.

The Meeting was adjourned at approximately 10:10 p.m.

Respectfully submitted,

Lynn Marchand
Land Use Administrative Assistant

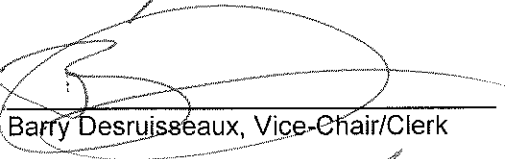


PLANNING BOARD MEETING MINUTES
February 28, 2018 continued

Planning Board Signatures




James Smith, Chairman



Barry Desruisseaux, Vice-Chair/Clerk



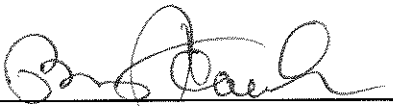
Eli Laverdiere



Joseph Leonardo, Member



Justin Piccirillo, Member



Barry Hauck, Alternate Member



Date