

**Planning Board Minutes**

**February 10, 2021**

**MEETING HELD VIRTUALLY USING GOTOWEBINAR PLATFORM**

Present: Beth Ashman-Collins, Chair; Joseph Cerretani, Clerk; Michael McClanahan, Ralph Penney, Sharon Friedman; Adrian LeCesne and Diana Bren, Alternates  
Shaun P. Burke, Director of Planning and Development; Jennifer Davis, Administrative Secretary

The chair read the following statement:

*Whereas both the Federal Centers for Disease Control and Prevention and the Massachusetts Department of Public Health have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19, Governor Baker has issued an order suspending certain provisions of the Open Meeting Law, Massachusetts General Law c. 30A, §20.*

*In order to satisfy the Open Meeting Law requirements, today's Town of Mansfield Planning Board meeting will available for to public via GoToWebinar and Mansfield Cable. The instructions for joining via GoToWebinar are in the Meeting Notice on the Town's Website at [www.mansfieldma.com](http://www.mansfieldma.com) and then clicking on today's date on the calendar.*

**1. Planning Board Meeting called to order at 7:00 p.m.**

**2. Correspondence**

1. January 27, 2021 minutes

p. 3 – Cerretani spelling; p. 4 – capitalize “PCBs”

**Motion:** To approve the January 27, 2021 minutes as amended (Penney-Cerretani)

Friedman – In favor

Bren – Abstain

LeCesne – In favor

Penney – In favor

Ashman-Collins – In favor

Cerretani – In favor

Five (5) in favor. Zero (0) opposed. One (1) abstained. PASSES

2. 31 Oxford Road special permit to be signed

**Motion:** To sign the 31 Oxford Road special permit (Cerretani-Friedman)

Friedman – In favor

LeCesne – In favor

Penney – In favor

Ashman-Collins – In favor

Cerretani – In favor

Friedman – In favor

Bren - Abstain

Six (6) in favor. Zero (0) opposed. One (1) abstained. PASSES

[Mr. McClanahan arrived at 7:10 p.m.]

**3. Form A (ANR) Plans**

South Street – Diane P. Fontanini Irrev. Trust, Kathleen H. Hemond, Trustee – The board approved a Form A for this site on December 9, 2020. This revised plan seeks to decrease the size of the easement; both lots will conform to frontage and area requirements. Mr. Burke recommended the plan be endorsed.

**Motion:** To endorse the Form A (Penney-Bren)

Friedman – In favor

Bren – In favor

LeCesne – In favor

Penney – In favor

Ashman-Collins – In favor

McClanahan – In favor

Cerretani – In favor

Seven (7) in favor. Zero (0) opposed. Zero (0) abstained. PASSES

#### **4. Special Permit Public Hearing continued – 571 Ware Street – Kennel – Anderson**

Ms. Ashman-Collins explained the board has listened to both the applicant and the public, but at the last meeting, there were some residents who were unable to speak. She invited those people to speak.

Elizabeth Madden, 11 Gloria Drive (no response)

Todd Borland, 579 Ware Street, said there has been noise from this business. He said this was started as a side business in 2019 and the applicant has had plenty of time to make it legitimate. He said the business has a great clientele and one of the board members had suggested finding a commercial space, which he thinks would be better

Casey Butler, 52 Fletcher Street, North Attleboro, said one of the suggestions was the business look into a commercial project, but said the home environment the applicant offers her clients is invaluable for dogs with anxiety. She said finding safe in-home daycare is difficult, and she thinks this will be an important and successful business for the community.

Kris Mousette, 15 Martha's Way, said the applicant applied for the license and the board has asked her to address some issues, which she has done. She said there is a lot of support for the applicant and the care she gives the animals, and she is surprised at how long this process is taking.

Ms. Madden was again invited to speak (no response)

#### **Board Comments**

Ms. Friedman asked Mr. Collins if complaints he receives also have to go to the Select Board. Mr. Collins said complaints go to him first, and if he is unable to resolve them, they have to go to the Select Board.

Ms. Anderson said she has enough collars for 15 dogs and is always outside when the dogs are out.

Mr. Penney said he thinks the board's role in the special permit process is to protect the residents and said a dog day care in a densely populated neighborhood is not a good fit. He said traffic and barking dogs will be detrimental to the neighbors and said he wished the applicant would consider finding a commercial location.

Mr. Cerretani said there have been a lot of positive, supportive comments, and the applicant is obviously good at what she does, but that is not the issue; the issue is the location. He said the proximity to the neighbors is an issue and he is concerned about setting a precedent for other neighborhoods around town.

Ms. Ashman-Collins said in any special permit, the board has to weigh the benefits versus the detriments.

Mr. LeCesne said the last year has been very unusual because of the Covid-19 pandemic, and many people have been looking for alternative ways to make a living. He said "public nuisance" is a cause of action the neighbors can bring.

Mr. Penney asked if the business would be exempt from any noise complaints under a special permit and kennel license from the Select Board. Mr. Collins said the special permit as drafted would not entirely shield the business from noise complaints.

Mr. LeCesne said with the permit, complainants would have to prove the noise is over and above what was anticipated in the special permit.

Mr. Collins said there have been noise complaints from neighbors; he said he spoke with the applicant about the requirement for a special permit in April 2020.

### **Department Head Comments**

The board received the following correspondence:

February 1, 2021 letter from Mansfield Animal Control Officer Jeff Collins

February 5, 2021 letter from Mansfield Animal Control Officer Jeff Collins

The board received correspondence from the following residents:

February 3, 2021 email from Larry Troy, 570 Ware Street

February 8, 2021 email from Beth Batchman

February 9, 2021 email from Daniela & Jonathan McCooey, 575 Ware Street

February 10, 2021 email from Peggy Duggan (2)

February 10, 2021 email from Nancy Cremins, 221 Essex Street

**Motion:** To approve the special permit as drafted (McClanahan-LeCesne)

Friedman – Opposed. There are six areas the board has to consider with a special permit, including fiscal impacts, on which this proposal would have a minimal effect; effects on the natural environment, which would be negligible; adequate municipal facilities and services, which would be negligible; pedestrian and vehicular traffic, to which this use has caused some inconvenience, but which the special permit conditions would likely mitigate; effects on

adjoining premises and neighborhood character, and while this does not affect the physical nature of the neighborhood, it certainly impacts the social structure; impacts on health, safety, convenience and general welfare of the town's inhabitants, which is where this use has the most impact, most of which is detrimental to the neighborhood. I have thought long and hard about this, I do not think the benefits outweigh the detriments and I am not in favor.

Bren – Opposed. I have spent a lot of time thinking about this, have read all the correspondence and have re-watched the previous meetings. I think this could have negative fiscal impacts on property values; there would be no impacts to the natural environment; this could negatively impact vehicular and pedestrian traffic; the impact on the neighborhood and social structure could be negative; and the most negative impact would be to the health, safety, convenience and general welfare. The benefits do not outweigh the detriments and I am not in favor

Cerretani – Opposed. I think this is a good, viable business, is something that can benefit the town, and the applicant does a good job but I wish she would consider locating to a more appropriate commercial site that would not impact residential neighbors. The safety and traffic impacts are negligible, but this does negatively impact the neighborhood and residents' ability to enjoy their property. The detriments outweigh the benefits and I am not in favor.

Penney – Opposed. The detriments to the surrounding neighborhood would be substantial. I do not think this is the right location for this type of business and wish the applicant would consider a more appropriate location, as there is clearly a need for this type of business. I am not in favor.

McClanahan – In favor. I think this is a good business and the applicant has addressed the concerns about hours of operation and made plans to address the headlights shining onto neighboring properties.

LeCesne – In favor. Establishing and maintaining a business is a difficult endeavor, and there have been a couple of major issues including the timeliness of the applicant seeking approval of the special permit, the impact on the neighbors, and balancing that against the interests of other people in the community who desire the amenities the business provides. I do not think health and safety would be negatively impacted and I think it is important to give people an opportunity to run a business, particularly given the economic difficulties caused in 2020 by the Covid-19 pandemic. I am in favor.

Ashman-Collins – Opposed. The detriments outweigh the benefits. I recognize the need for dog day care and the need for people to make a living from their homes, and understand that even if a business starts off on the wrong foot, there is a path to make it right, but I do not think that is a reason not to grant the special permit. The fiscal impacts and effects on environment are minimal, I do not think traffic would be an issue. I am voting against the special permit because of the health and safety concerns and impacts on the neighborhood. Dog day care is an important business but, this is the wrong location. I am not in favor.

**Two (2) in favor. Five (5) opposed. Zero (0) abstained. FAILS**

**Motion:** To close the public hearing (Penney-McClanahan)

Friedman – In favor  
Bren – In favor  
LeCesne – In favor  
Penney –In favor  
McClanahan – In favor  
Ashman-Collins -In favor  
Cerretani -In favor

Seven (7) in favor. Zero (0) opposed. Zero (0) abstained. PASSES

#### **4. Site Plan continued – 19 Knight Way – Montessori School – FOD, LLC**

**Motion:** To waive the reading of the new correspondence (McClanahan-Bren)  
Mr. Penney noted that if anyone wants to review the correspondence, it is available at the Planning Department.

Friedman – In favor  
Bren – In favor  
LeCesne – In favor  
Penney –In favor  
McClanahan – In favor  
Ashman-Collins -In favor  
Cerretani -In favor

Seven (7) in favor. Zero (0) opposed. Zero (0) abstained. PASSES

The board received the following new correspondence:

January 20, 2021 letter from Attorney John A. McDermott, Brooks & DeRensis  
February 1, 2021 memo and revised plans from RIM Engineering  
February 2, 2021 letter from Attorney Mark Lanza  
February 8, 2021 memo from Mr. Burke  
February 9, 2021 memo from Rick Alves and Josh Reinke, Engineering Department  
February 10, 2021 email from Katelyn Gonyer, Conservation & Environmental Planner

Attorney Mark J. Lanza introduced owner Emily Miller and building designer Gregory J. Smolley

Attorney Lanza said at the end of the last meeting, the board requested a traffic study and traffic queueing study regarding the easement to this site, which they provided, along with the March 2020 Land Court judgement. He said they have responded to the Town Engineer's comments with a narrative and revised plans, and they responded to Attorney Perrotta's December 1, 2020 letter regarding zoning issues.

Ms. Miller said she knows it can be troubling when someone proposes a change to the neighborhood, but said she also feels it is important to treat one another with respect and said she thinks some of the comments on social media have crossed the line. She said she invited the neighbors to her school in November 2007 and during that meeting, she shared her willingness to work with them on reasonable compromises. She said the neighbors were not interested in that, and the only correspondence she has had since then has been through attorneys. She said the two direct abutters bought their homes knowing she had these plans because the former owners were

involved in the lawsuit. She said she offered to sell part of her property to an abutter to make their property conforming, and they refused.

Ms. Miller said this site plan is for a single classroom that has the potential to serve a maximum of 30 students. She said in the unlikely scenario that every child would come individually, plus four staff members, there would be a maximum of 34 vehicles. She said the revised plan shows a turnaround and the driveway will allow for queuing for 16 vehicles on the site. She said at her current location, she has 69 students with no turnaround and no queuing space, and it is run very efficiently.

Ms. Miller said the school year is 164 days, and 34 vehicles during the day when people are normally at work and children are in school would not pose a significant hazard. She said there have been postings that there will be 600-800 vehicle trips per day, which she said is not reasonable.

Ms. Ashman-Collins reminded the board that what is before it is specifically the site plan, not any future or theoretical plan. She said the board also has to consider the Dover Amendment, which considers a school to be a use by right, and the board cannot deny it based on possible future traffic impacts.

Ms. Miller said she has looked at Mansfield public school schedules, and she thinks her current schedule will accommodate that, but said she would modify her schedule as needed.

Ms. Miller said a concern has been raised about children running or riding in the street; she said that is a safety issue regardless of whether her school is there, and noted the neighbors have ample backyards. She said she pays property taxes on this property and her current commercial property. She said this property was listed on MLS for several years before she bought it and she gave Mrs. Knight a life tenancy so she could stay in her home.

Ms. Miller said the neighbors use the property for recreation, which she has continued to allow. She said her school has been recognized for its work in community service, and the school could benefit the community by lowering the posted speed limit for a school zone, budgetary relief for the town and the opportunity for community use of the property.

Mr. McClanahan said Ms. Miller said one of the lots in the subdivision is non-conforming, which is not the case. He said all the lots conformed to the requirements when the subdivision was approved.

Mr. Smolley said he has been involved in school design since 1994 and is a registered architect, certified in programing for learning environments. He said they are presenting a single classroom for hands-on, project-based learning. He explained the idea is to provide space for maximum flexibility for students and teachers. He said the design provides the best line of sight for students and teachers, the space and furniture are properly sized for the age of the student, and the connection to the outdoors is critical. He said the building will have an overhead door to allow the classroom to expand outside under a canopy.

### **Board Comment**

Ms. Bren asked what would happen if the car line backs up beyond the turnaround and the 16-car queuing length. Ms. Miller said except for the beginning of the school year when staff is figuring out which car is which and loading and unloading takes longer, they do not have that many cars lined up.

Ms. Ashman-Collins asked about arrival times; Ms. Miller said school starts at a specific time, so car queuing line has a specific time. She said sometimes people are late, and they have to call to make arrangements. She said there would only be one program at this site. She said currently, start time is 8:15-8:30 am for pre-K, kindergarten and elementary students.

Ms. Friedman said she understands this is a site plan and a school is a by-right use because of the Dover Amendment, so the Planning Board's jurisdiction is fairly minimal. She said the board does have jurisdiction over engineering issues, and it seems that the applicant has complied with the Engineering Department's comments. She said it is important for people listening to the meeting to understand the board's limited parameters.

Mr. Burke said it seems Ms. Miller has addressed operational issues like traffic queuing by staggering start times to minimize impact on the neighborhood. He said the state statute provides an unlevel playing field by encouraging certain uses, such as schools and churches, under Chapter 40A, Section 3. Those uses are subject only to "reasonable regulation" of things like open space, parking and lighting, but operational issues are not part of reasonable regulation. However, he said if Ms. Miller wants to be a good neighbor by managing those operational issues, that would be a positive.

Mr. Burke said normally the Planning Board gauges whether a plan conforms to the local by-laws, but with a Dover Amendment use, the Commonwealth declared that because some uses may be subject to discrimination, they will be allowed to happen by right through site plan, in which it is anticipated the outcome will be positive.

Mr. Penney said he understands the board's role is to make sure a proposed development fits in the neighborhood. Mr. Burke agreed, but said the board has to be judicious in differentiating between a site plan application and what it did at the last public hearing, which was a special permit requiring a super majority and where the board has significant discretion. He said on a Dover Amendment issue, the board has even less discretion.

Mr. McClanahan asked about the ongoing litigation; Mr. Burke said that is about the access easement at the end of Knight Way. Attorney Lanza said March 2020 Land Court decision that the facility, which may be built someday to accommodate up to 200 enrollees, would not put an undue burden on the easement. He said that decision is currently under appeal to the Mass Appeals Court and the decision is pending. Ms. Ashman-Collins said if that larger school were to happen in the future, another site plan would be required.

Ms. Ashman-Collins said the queueing issue has been a concern, and the applicant has said the proposed queueing length will accommodate the anticipated number of cars. Mr. Burke said with staggered start times, the queueing length should be sufficient to accommodate 30 students.

Mr. Cerretani asked for clarification on number of students. Ms. Miller said this facility would be for 30 students, and her current facility has 69 students. Mr. Cerretani asked if the enrollment plan for this proposed facility is 30; Ms. Miller said the maximum capacity is 30.

Mr. Penney said the current facility on Creeden Street, which has 69 students and very little queueing space, resulting in cars blocking the street. He said it looks like this proposal has more on-site queueing; Ms. Miller said the queueing length is 16 cars from inside the property along the backside of the loop and around to the building. Mr. Penney asked if there would be any time the cars would back up onto Knight Way; Ms. Miller said there would not be. She said if she thought that would happen, she would work it out with the Police Department, the way she did on Creeden Street. Mr. Penney said the main problem is when cars come to the site and it takes 3-5 minutes to unload a child. Ms. Miller said staff gets the child out of the car and parents do not get out of the car.

Ms. Bren said some parents want to arrive earlier than drop off time starts, which would cause an issue with queueing, and asked how Ms. Miller mitigates that. Ms. Miller said parents are given a queue time, and they learn quickly what the guidelines are.

Mr. Penney asked about the number of emails that have been received; as of the start of the meeting, there have been 39, with 38 opposed and one in favor. Ms. Miller said she thinks there was a campaign to get people to rally against this proposal. Ms. Ashman-Collins said the board has received and read all the comments and would like to make sure the site plan mitigates as many of the concerns as possible. Mr. Penney said the board is cognizant of and concerned about the issues residents have brought up, especially traffic. Ms. Miller said she is confident the site can accommodate 16 cars. Mr. Penney said this would be about half the capacity of the Creeden Street facility; Ms. Miller said it is less than half her current enrollment, and about a third of what she has had at maximum capacity.

Mr. LeCesne asked if the applicant would be comfortable re-approaching the easement overburdening issue in a future plan; Ms. Miller said land court has already determined the easement will not be overburdened. She said the plan has been designed by engineers and she is confident about their design.

The board received correspondence from the following residents:

John Kershaw, 2 Claire Avenue;  
Marco D'Amato, 7 North White Pine Lane  
Jill Keyes, 11 North White Pine Lane  
Kasia Frenette, 12 South White Pine Lane  
James and Amy White/Steve and Kirsten Murawski  
James White, 10 Knight Way  
Kellie O'Connell, 57 Otis Street  
Jill Johnson  
Joe Mullen, 3 Knight Way  
Kelly Haydu, 68 Williams Street  
Mark & Maureen Larochelle, 19 Justin Dr.  
Kate Flinn, 45 Old Elm Street



Nicole and Evan Gelb, 7 Lantern Lane  
Nicole Mullen, 3 Knight Way  
Steven K. Warner, 27 N White Pine Lane  
Irappa Arabhavi, Justin Drive  
Marco D'Amato, 7 North White Pine Lane  
Don Henrique, 195 Otis St.  
Phyllis Stanovitch  
Karen Cavanaugh, 15 Justin Drive  
Amy White, Knight Way  
Nicole Mullen, 3 Knight Way  
Scott Haring, 2 Knight Way  
Michael and Deb Svenson, 5 Justin Drive  
Steve & Karen Purtell 3 N. White Pine Ln  
Cindy Cavanaugh, 113 Balcom Street  
Bob Cavanaugh, 15 Justin Drive  
Sandy and Bob Haynes, 224 Balcom Street  
Matt Moniz, 6 Claire Avenue  
Michaela and Joe Hayes, 17 Claire Avenue  
Jay and Linda Brolin, 7 Claire Avenue  
Santosh Subedi  
Mark and Lauren Parker, 49 Balcom Street  
Jerry Willette  
Courtney Mullen, Balcom Street  
John Maynard, 164 Balcom Street  
B Callahan  
Sharon Hoff, 10 North White Pine Lane

**Motion:** To approve the "Site Plan 19 Knight Way Hands-On Montessori School" dated November 15, 2020 and revised January 27, 2021, prepared by RIM Engineering Co., Inc. (Friedman-LeCesne)

Friedman - In favor  
Bren – In favor  
Cerretani – In favor  
Penney – Abstain  
LeCesne – In favor  
McClanahan – Abstain  
Ashman-Collins – In favor

Five (5) in favor. Zero (0) opposed. Two (2) abstained. PASSES

Mr. LeCesne said he thinks it is important to acknowledge this appears to be a two-phase project where the board is voting now on the first phase, and the board's vote is specifically on the current site plan and is not a precedent in the event a future site plan is submitted.

Mr. LeCesne asked Attorney Lanza to let the board know when the appeals court issues its ruling.

Ms. Miller said she will be happy to work with the neighbors to make this more palatable. Ms. Ashman-Collins said the board has read and heard all of the concerns and appreciates everyone's participation.

#### 7. Around the Table

Ms. Ashman-Collins said she has been invited to address the Select Board on February 17 to discuss what the Planning Board does.

Mr. Penney said Mr. Burke drafted a zoning article to reduce density in B1 for discussion on February 24. He asked about the option of limiting the number of units in a building and what that number should be. Mr. Burke said after the 300 North Main Street construction with 100 units, the board had discussed height, bulk and the number of units as ways to manage density, and consensus was that the number of units may be the best method. Mr. Penney said 300 North Main Street is about 60 units per acre and suggested looking at the incentives in B1.

Mr. Cerretani said the North Main Street Fire Station has been sold and asked about plans moving forward. Mr. Burke said the board will see it as a site plan and the applicant wants to move forward this year. Mr. Penney said he worked on the lot next door, which was contaminated and cleaned up. He said the Fire Department property had heating oil tanks, but they were removed years ago and he does not think the property is contaminated. He said there is a parking issue on the site, and they have been talking with the owner of the vacant lot next door. Ms. Friedman suggested the lot could combine some parking and a small park. Mr. Penney said parking is frequently what holds back projects, especially downtown.

#### 8. Adjournment

**Motion:** To adjourn at 9:00 p.m. (McClanahan- )

Friedman – In favor

Bren – In favor

LeCesne – In favor

Penney – In favor

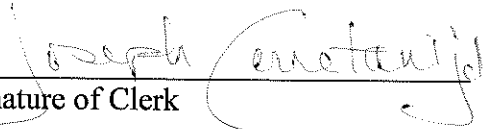
McClanahan – In favor

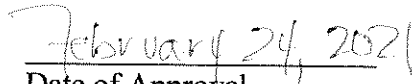
Ashman-Collins – In favor

Cerretani – In favor

Seven (7) in favor. Zero (0) opposed. Zero (0) abstentions. PASSES

Date of Next Planning Board Meeting: February 24, 2021 at 7:00 p.m.

  
Signature of Clerk

  
Date of Approval