

Planning Board Minutes
February 24, 2021
MEETING HELD VIRTUALLY USING GOTOWEBINAR PLATFORM

Present: Beth Ashman-Collins, Chair; Joseph Cerretani, Clerk; Michael McClanahan, Ralph Penney, Sharon Friedman, Michael Feck; 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 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. February 10, 2021 minutes

Motion: To approve the February 10, 2021 minutes as submitted (Friedman-McClanahan)

Friedman – In favor

Bren – In favor

Penney – In favor

Ashman-Collins – In favor

Cerretani – In favor

McClanahan – In favor

Feck - Abstained

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

2. 571 Ware Street special permit decision to be signed

Motion: To sign the 571 Ware Street special permit decision (Penney-Cerretani)

Penney – In favor

Ashman-Collins – In favor

Cerretani – In favor

Friedman – In favor

Bren – In favor

McClanahan – In favor

Feck - Abstained

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

Mr. McClanahan asked if site plan can be appealed; Mr. Burke said it can.

3. Form A (ANR) Plans

None

4. Discussion of Open Meeting Law Complaints

[Mr. LeCesne arrived at 7:50 p.m.]

The clerk read Complaint #1 from Joseph and Nicole Mullen, 3 Knight Way

Ms. Ashman-Collins said she does not believe there was a violation of the Open Meeting Law, but said she wants to discuss the board's process.

The clerk read a February 16, 2021 memo from Mr. Burke.

Ms. Ashman-Collins said that while, from a legal standpoint, there was no Open Meeting Law violation, she understands there was frustration, which the board felt as well. She said the things the public wanted to talk about the most - whether the school belonged on Knight Way and the traffic impacts - were off the table for the site plan under the Dover Amendment. She said the board's limited scope may have looked like the board didn't want to listen to the public, but the board did listen to the public. She said the board members read all the public comments carefully with an eye toward what could be done to minimize impacts. She said given the limitations of the law, the board could not put limitations on the building of the school or because of the traffic impacts. She said the board is also concerned about traffic impacts on that minor road, and if the legal framework were different or this were a special permit use and not a use by right, the decision may have been different. She said she feels bad the board did not communicate what a site plan is, what its parameters are, and why this one was particularly limited by the state law for the educational use.

Ms. Bren said that was well said.

Mr. Penney said he doesn't agree the board's hands were tied by the Dover Amendment, but he said right now the board is discussing public comment at its meetings. He said the board likes to hear from the public because it helps with its decisions. He said in this case, at the first meeting, the board did take a number of comments and when they seemed to get repetitive, the idea at the second meeting was to limit public comment in the interest of facilitating the process. He said he thinks the issues had been adequately vented. He said at the second meeting, there were a number of people waiting to be heard and he said maybe the board should have discussed and come to a consensus about whether to take additional public.

Mr. LeCesne noted a site plan is a by-right use and not a special permit use, and some of the attendees seemed to be asking the board to make a decision about the easement issue, which the courts have already decided. He said it is important for people to be able to express their concerns, and said if a larger site plan comes in, it would be important to capture those comments. He said the site plan before the board didn't warrant the easement questions or the higher-level traffic assessment some people would have liked.

Ms. Bren said during public comment, many of the discussion was about a possible future larger building, but at the second meeting, the board focused on the proposal before it, with the smaller building. She said if the larger building comes back in the future, there will be another public meeting on that site plan. She said the board had to focus on the proposal in front of it.

Ms. Friedman said the Dover Amendment has a lot of clout in relation to what a Planning Board can and cannot do with a site plan, especially for an educational use. She said there are a couple of narrow things around public safety that a board can put some parameters on, but those are limited. She said should another plan come before the board, the board could be very specific with the attendees to the open meeting and outline those parameters outlined for the public. She said perhaps the board should have town's attorney explain what its parameters are regarding the applicant's ability to build by right, so the public would also understand.

Mr. Penney said this discussion is not about approving or disapproving a plan, but rather how the board handles public comment. He said the board has to decide how best to listen to the comments. Ms. Friedman agreed, but said there is the potential for other "hot button" items coming in and the board should be as prepared as it can be.

Mr. Cerretani said he thinks the board has done a good job dealing with these meetings virtually, and it is working better than he thought it would, although it is not perfect. He said it is hard to read the room, and the board tries to be flexible. He said the board wants to hear from the public and the abutters, but it is difficult in this format. He said he does not think the board violated the Open Meeting Law, as it gave the public the opportunity to speak. He said he felt like he had plenty of information, and had spent a couple of hours going over the information and the comments.

Mr. McClanahan said he was concerned the board allowed the applicant to speak and not the public. Mr. LeCesne said a lot of what the applicant said was not on topic and suggested striking it from the record.

Ms. Bren said she thinks it is ok to ask people to get back on track if they go off.

Mr. Penney said online meeting are difficult, and the chair can use their discretion to cut off comment if it is not relevant.

Ms. Friedman said the complaint said more than half of board didn't understand their role; she said she disagrees with that and believes the board members understand their roles. Mr. Penney said he is still unclear about the ramifications of the Dover Amendment. Ms. Ashman-Collins said staff briefed the board on the educational use being by right.

Motion: To direct the Planning Department to draft a letter of response for the board to review and provide comment back at the March 10 meeting (Penney-McClanahan)

Mr. Penney suggested using Mr. Burke's memo as a base, expressing the board's apologies and indicating the board's intention to listen and not to shut out relevant input.

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

Eight (8) In favor. Zero (0) opposed. Zero (0) abstained. PASSES

The clerk read Complaint #2 from Robert Cavanaugh, 15 Justin Drive

Ms. Ashman-Collins said she understands Mr. Cavanaugh felt he was criticized by the applicant, but said he had not been recognized by the chair and he was muted because staff was muting all background noise. She said that was not personal. She said while it is not an open meeting violation, she wished she had stopped the applicant from discussing things that were not on topic.

She said the board had read and considered all of the public comment prior to the second meeting, even if the public comment was not read during that meeting.

Mr. Cerretani said staff was sending those comments to the board members as they arrived, so the board was able to read them in real time, which was helpful.

Mr. Penney said it was unfortunate the board couldn't take all the public comment, but time is limited and virtual meetings are difficult.

Motion: To direct the Planning Department to draft a letter of response for the board to review and provide comment back at the March 10 meeting (Penney-McClanahan)

Mr. Feck said the board has a certain amount of time in which it has to act on an application, and even if the board wants to continue the discussion, the applicant does not have to agree to a continuance. He said limiting comment is not simply an issue of the board members wanting to get the meeting over with, there are time limitations. Mr. Cerretani said he agreed, and said the board members read all the comment, talks about them and asks a lot of questions. Ms. Bren suggested explaining the reasons for the board not reading all the comments.

Ms. Friedman asked if the board should respond to Mr. Cavanaugh's request to overturn the board's decision. Mr. Burke said the only thing the board is discussing is the OML complaint, so that should be the only thing addressed in the response.

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

Bren – In favor
McClanahan – In favor
Feck – In favor

Eight (8) In favor. Zero (0) opposed. Zero (0) abstained. PASSES

5. Planning Board Discussion of Potential Zoning Amendments for 2021 Annual Town Meeting

The clerk read Mr. Burke's February 22, 2021 memo regarding the requirement to submit final language by the close of the warrant.

Mr. Penney noted one line in Paragraph B(1) in Section 5.3, Site Plan, needs to be corrected from "review" by the Planning Board to "approval" by the Planning Board so it agrees with the rest of that section. Mr. Burke agreed.

Mr. Penney said 55 and Over should be a special permit use in B4, but the use table says it is not allowed. Mr. Burke said he would check that.

"Housekeeping" Articles:

1. Add 5G in Airport Zone to Schedule of Principal Use Regulations [Airport Zone was inadvertently left off the Schedule when 5G was adopted in 2020]
2. Add Adaptive Reuse of Historic Structures in B4 and TOD to Schedule of Principal Use Regulations [the B4 and TOD zones did not exist when the Adaptive Reuse by-law was adopted in 2014]

Consensus was to submit the articles to add 5G to the Airport zone and Adaptive Reuse of Historic Structures to the B4 and TOD zones.

Amendment Required by the Commonwealth:

3. Flood Plain District (230-5.4)

Mr. Burke explained the Commonwealth is requiring all cities and towns to adopt the same definitions and to add a disclaimer about liability. No flood plain designations or map changes are being proposed in this amendment.

Ms. Bren asked if notice would be required if this passes at Town Meeting; Mr. Burke said all zoning by-laws require a public hearing, and if this passes at Town Meeting, abutting cities, DHCD, SPREDD, and Mass Emergency Management would have to be notified. Ms. Friedman asked if there would be any map changes; Mr. Burke said no.

Consensus was to move forward with the floodplain article.

William Clemmey said he has spoken with the Town Clerk about the previously mentioned use table issues, and she said she would be talk with Mr. Burke and have those corrections made.

Mr. Penney suggested not moving forward with the TOD zoning amendments at this time.

Articles Withdrawn from 2020 Special Town Meeting:

4. FAR/Building Height in B4 (Schedule 4.2B, Density & Dimensional Regulations, Business & Industrial Districts)

Mr. Clemmey said raising FAR and lowering building height would make it difficult for small lots. He said setbacks were increased when the B4 zone was adopted and suggested if a commercial use abuts another commercial property or zone line, a 20-foot rear setback could be allowed rather than 40 feet.

Mr. Clemmey asked board to consider multiple residence by special permit in B4.

Mr. Clemmey said there is a footnote in the by-law allowing business and residential to be combined in same building, but requiring the first floor to be commercial. He asked if two commercial buildings would both be required to have retail on the first floor.

Mr. Penney said he thinks the rear yard setback was increased from 20 to 40 feet to protect the residential neighbors behind Benny's. He suggested that setback could be dependent on what use abuts the residence. He suggested adding a new footnote 6 saying that in B4, the rear setback is 40 feet when a residential use or zone are within 75' of the property line, or 20 feet when a business or industrial use is within 75' of the property line. He said it would be similar to the requirements in the PBD.

Mr. Burke said that 40-foot setback was established to protect abutting residences, and agreed flexibility could be a good thing.

Mr. Feck asked if Patriot Supply would have to have a 40-foot setback because there is a residential use within 75 feet, but not directly abutting it. Mr. Burke said for this discussion, the rear setback would be 20 feet when a commercial use abuts another commercial property to the rear, or 40 feet when it abuts a residential property to the rear. Mr. Burke noted PBD allows much higher buildings.

Mr. LeCesne asked the reasons for the reduced building height. Ms. Friedman said she was thinking about residential properties behind commercial uses downtown; Ms. Ashman-Collins said there are also a lot of residences abutting commercial uses along Chauncy Street.

Ms. Ashman-Collins said there had been some concern about 45-foot tall buildings with things like hvac screening, parapets, elevator shafts and stairwells above the maximum height, making them taller than 45 feet.

Ms. Friedman said she wouldn't have a problem with the rear yard setback flexibility, but would like to keep the height down.

Mr. Penney said 45 feet is allowed in the other business zones and asked why it would be different in B4. Ms. Friedman said she thinks the board is learning from past mistakes. Ms. Ashman-Collins said there were concerns about the height of 1 Mansfield Avenue and 300 North Main Street.

Mr. Penney suggested rather than reducing height in B4, we may want to better determine how the height of a building is measured. Ms. Ashman-Collins asked if that measurement is standard

throughout the Commonwealth; Mr. Burke said it is not. Mr. Penney asked what Mr. Burke would recommend. Mr. Burke said he understands the rationale behind the proposed height change, but said he would not feel comfortable writing a new building height definition in time for the close of the warrant this year.

Ms. Friedman said she doesn't have a problem with buildings having architectural features, but does have a problem when those things make the building much taller than the maximum height.

Mr. Feck said larger lots would be helped by higher density, but was concerned it would make it harder to develop small lots.

Ms. Ashman-Collins said one of the points of increasing density would be to leave room for open space, which is more of a streetscape approach.

Mr. Penney said he thinks this bears more discussion; Ms. Ashman-Collins suggested holding the public hearing to get input. Mr. Burke said with this year's requirement for final wording by the close of the warrant, the only options would be to make changes on the floor of Town Meeting or withdraw the article. Mr. Penney said changes could only be made on the floor to make the article less restrictive.

Mr. Cerretani said the B4 zone is primarily a long, skinny zone with residential abutters, and he would have a problem with buildings that end up closer to 55 feet tall, which is what has happened with some of the 45-foot tall buildings. Ms. Friedman said she is concerned about the residential abutters to commercial uses.

Mr. Feck said a change to the building height definition would be the difference between three and four stories. He suggested leaving the height at 45 feet and not allowing anything above that, so buildings would have to be designed to accommodate the rooftop equipment. Ms. Friedman said developers could be more creative with their designs.

Mr. McClanahan suggested making 45 feet the maximum height of everything, including the rooftop equipment.

Mr. Clemmey suggested making the building height 35 feet with a 40-foot setback if it abuts a residential zone or building, and 45 feet with a 20-foot setback if it abuts a commercial lot.

Mr. Penney said he isn't sure this can be pulled together by Friday. Mr. Burke said he is concerned there isn't consensus on the board. Mr. Penney asked about revising the dimensional table to add a footnote to revise the rear yard setback in B4. Ms. Friedman asked what would happen if there is a residence on the side of the commercial property; Mr. Penney said he is only talking about the rear setback. He said the current sideyard setback in B4 is 20 feet and that has not been changed. Ms. Friedman said she would not agree with the footnote change if there is a residence on the side or front.

Ms. Ashman-Collins asked if anyone in the audience would like to speak.

Mr. Clemmey said raising FAR and lowering height is contradictory. Mr. Cerretani he is concerned about the residences behind Chauncy Street and he wouldn't want to see more buildings the height of the storage building on Wood Avenue.

Ms. Friedman said she doesn't have a problem with 35 feet and 1.0 FAR.

Jeffrey Vigeant, owner of Patriot Supply, said his lot is one-half acre and they have tried to develop it for 10 years. He said the 1.0 FAR and height decrease would make his property less developable. He said the setback idea is a good one; he said he abuts the post office and three apartment buildings, and there is a residential property across the street. He said there are already 45-foot tall buildings in the area, and the proposed FAR increase is very small. He said he has no plans for a large apartment building, but would like to build a new retail building with office space above. He said the proposal that was withdrawn last year was 2.0 with no restriction on roof height. He said he would like to develop his property, but this proposal would make it financially undoable. He said this would hurt small businesses and he is disappointed in the process. Ms. Ashman-Collins said that is a nudge in the direction to not go forward with this; Mr. LeCesne agreed.

Ms. Ashman-Collins said she would like to consider the streetscape.

Consensus was to not submit the B4 article this year, but to continue working on it for a possible fall Town Meeting. Mr. Penney said those are usually Special Town Meetings for financial issues, and are not well attended.

Mr. Feck said he doesn't think the board should only go forward with zoning articles if there is consensus.

Ms. Ashman-Collins said even though the article will not be on this year's warrant, the board will still be discussing B4 and TOD issues.

5. North Main Street Overlay District (230-5.10K); and
FAR in B1 (Schedule 4.2B, Density & Dimensional Regulations, Business & Industrial Districts)

Mr. Penney said he thinks the board has achieved a lot of its intentions with incentives downtown and suggested it might be time to consider requiring those things rather than making them incentives.

Consensus was to table the two B1 articles to a possible fall Town Meeting.

Ms. Friedman asked about upcoming projects the board will be seeing; Mr. Burke said there is some activity in the business park, but he has not been contacted about any downtown development.

Ms. Bren suggested keeping a deadline date in mind for preparing articles for a fall Town Meeting.

Mr. Cerretani said the board has to look at the whole zone and not write zoning for one or two lots.

~~6. Mansfield Station Revitalization Overlay District [TOD] (230-5.12)~~

New Zoning Articles:

~~7. Short-term Rental (new section)~~

8. Signs (2340-4.7) [The Select Board will be sponsoring this article]

Street Acceptance:

- Lorraine Way
- Julia Drive

6. Around the Table

Ms. Ashman-Collins said the Cultural Council has asked the Planning Board to sign on to a letter thanking the Select Board for working to preserve the façade of the North Main Street Fire Station.

Ms. Freidman asked about the complaint about the NRT vans being queued up on County Street in the morning. Mr. Burke said he has spoken with Mr. McCarthy and his attorney, and was told they had moved the vans to plow the parking lot. He said he was assured they will not park vans on County Street and will not use driveways to turn around in.

Mr. Burke said the Amazon warehouse is changing over to a robotics facility, which will result in one additional employee than originally discussed during the site plan.

7. Adjournment

Motion: To adjourn at 10:15 p.m. (McClanahan-)

Friedman – In favor

Bren – In favor

LeCesne – In favor

Penney – In favor

McClanahan – In favor

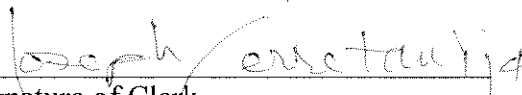
Ashman-Collins – In favor


Cerretani – In favor

Feck – In favor

Eight (8) in favor. Zero (0) opposed. Zero (0) abstentions. PASSES

Date of Next Planning Board Meeting: March 10, 2021 at 7:00 p.m.


Signature of Clerk


Date of Approval