

PLANNING BOARD
Meeting Minutes
Tuesday, April 16, 2013
Town Hall, 120 Main Street
7:00 PM

1 Present: J. Simons (arrived at 8:07pm), M. Colantoni, R. Rowen, L. Rudnicki. L. McSherry

2 Absent: D. Kellogg

3 Staff Present: J. Tymon, J. Enright

4
5 Meeting began at 7:15pm.

6
7 **PUBLIC HEARINGS**

8 CONTINUED PUBLIC HEARING, 250 Clark Street: Application for Special Permit-Site Plan
9 Review. Applicant proposes to expand the existing building. The expansion will include an
10 additional hanger as well as additional office space, research and development space and storage
11 space. The expansion will also provide additional parking, a larger septic system and stormwater
12 facilities.

13 J. Mann, Attorney representing Flight Landdata: The proposal appeared before the Conservation
14 Commission and the changes recommended have been made. L. Eggleston's comments have
15 been addressed and a positive response letter has been received from L. Eggleston. The Health
16 Agent has reviewed the septic design and she has submitted a letter to J. Tymon stating that there
17 was no reason for the approval not to be granted once the plans are submitted. The locations of
18 the buildings and primary infrastructures have not changed. The rain garden has been changed to
19 a bio-filter, a stone swale has been added next to the building, a stone wall and a guard rail has
20 been added, and snow storage areas have been added to the plan. There is an area on the site that
21 has been previously disturbed. That area will be restored.

22 Chris Sparages, Williams & Sparages: The bio-filter does not require digging as deep into the
23 existing ground as a rain garden would. The shape and grading is the same. The swale added to
24 the side of the building is actually an infiltration trench. It will collect the roof runoff from the
25 proposed building.

26 J. Tymon: The bio-filter is for the runoff from the parking area. Confirmed that L. Eggleston's
27 concerns have been addressed and that the Board of Health has submitted an email stating that
28 once the changes are made to the plan they would not have a problem with the septic plan.

29 R. Rowen: This will remain open until the next public hearing. A Decision will be reviewed at
30 that time.

31
32 CONTINUED PUBLIC HEARING, Appleton Street: Proposed six lot Planned Residential
33 Development Special Permit and Definitive Subdivision Plan to be located at 464 Appleton
34 Street in the Residential-1 (R-1) Zoning District. The project would combine three (3) lots and
35 raze an existing dwelling with frontage on Appleton Street.

36 J. Tymon: The only item left open was the 50' buffer. The buffer has been added to the Plan.
37 Town Counsel is still reviewing the language for the access and utility easement.

38 R. Rowen: Can a pedestrian pathway connecting Appleton Street to the subdivision be included
39 in the language.

40 J. Tymon: Will discuss putting that language into the easement with Town Counsel.

41 Phil Christiansen, Christiansen & Sergi: As a reminder, the access for a pathway would go
42 through an abutter's driveway. The 50' buffer has been added to the plan. There will be work
43 inside the buffer to demolish the existing house. The limit of work is shown on the plan.

44 **MOTION**

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45 A motion was made by L. McSherry to close the public hearing for the Planned Residential
46 Development and Definitive Subdivision Plan for 464 Appleton Street. The motion was
47 seconded by R. Rowen. The vote was unanimous 5-0.
48 Draft Decisions were reviewed.

49 **MOTION**

50 A motion was made by R. Rowen to approve the Definitive Subdivision Plan for 464 Appleton
51 Street as amended. The motion was seconded by M. Colantoni. The vote was unanimous 5-0.

52 **MOTION**

53 A motion was made by M. Colantoni to approve the Planned Residential Development Special
54 Permit application for 464 Appleton Street as amended. The motion was seconded by L.
55 Rudnicki. The vote was unanimous 5-0.

56

57 NEW PUBLIC HEARING, 0 Great Pond Road: Application for a Watershed Special Permit.
58 Applicant seeks to construct a single family dwelling with appurtenances on a presently
59 undeveloped, buildable lot.

60 J. Tymon: The applicant received a variance from the Zoning Board of Appeals (ZBA) last
61 week. Stormwater review has not been completed yet.

62 J. Simons: Was the variance granted for soil, slope or topography?

63 Phil Christiansen, Christiansen & Sergi: It was granted on topography. Two proposals for the
64 house location were presented to the ZBA. The lot is level at the bottom and at the top, but very
65 steep in the middle. There would be less disturbance to build toward the bottom, in the Non-
66 Disturbance Zone. Pervious pavement for the driveway, infiltration of all roof water, and
67 sedimentation control are all proposed.

68 Joel Gagnon, Architectural Residential Design: Reviewed the grading, house design, elevations,
69 materials, retaining wall, and landscaping. There will be a four foot retaining wall along the
70 back to provide for a 30' deep back yard.

71 J. Simons: Have any pits into the hill been done to make sure the hill doesn't bleed.

72 R. Rowen: What type of soil is there?

73 P. Christiansen: It is silty gravel.

74 R. Rowen: Will a drainage system need to be put in behind the stone wall?

75 P. Christiansen: There will be a drain and stone behind the wall to keep the pressure from
76 behind it. This project was brought before Conservation last week. The hearing is still open
77 because comments have not been received from L. Eggleston yet.

78 J. Simons: This will come down to the drainage. The Watershed Special Permits are taken
79 extremely seriously given it is our water supply. Best practices beyond a reasonable doubt are
80 expected to ensure the quality of the water supply is not degraded by the project. The hearing
81 will be kept open until the next meeting.

82

83 NEW PUBLIC HEARING, 1077 Osgood Street: Application for a Watershed Special Permit
84 and Site Plan Review Special Permit. Applicant proposes to construct a 3,672 sq. ft. single story
85 retail bank, parking lot, and stormwater structures within the Non-Discharge Zone and Non-
86 Disturbance Zone of the Watershed Protection District.

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87 J. Tymon: This project has been sent to outside consultants for review of stormwater, civil
88 engineering, and traffic. The applicant received a variance from the ZBA in January of this year.

89 J. Simons: This is a fairly large commercial building with a lot of additional impervious surface
90 related to parking and it is a site that is right next to the lake. Absolute best practices beyond a
91 reasonable doubt are expected in order to assure there is not going to be any degradation to the
92 water supply.

93 J. Tymon: The applicant has recently received all of the peer review comments; however, their
94 engineer has not had sufficient time to respond to them. This is a proposal for a new building on
95 an existing site. The plans provided by the applicant for stormwater, landscaping and parking do
96 not take into account the existing parcel. The existing parking, landscaping, stormwater, and
97 traffic flows all have to be accounted for so this should not be looked at as a separate project.
98 Reviewed L. Eggleston's stormwater review comments related to Zone A, a buffer zone from a
99 surface drinking water supply defined by the state, and the requirements for this Zone.

100 Rick Barthelmes, Lynnfield Engineering: This application is for a Watershed Special Permit and
101 a Site Plan Special Permit. The project is within the Non-Disturbance Zone to the Lake. In
102 January a Special Permit from the ZBA for a permanent structure within the Non-Disturbance
103 Zone was received.

104 J. Simons: What was the logic of granting the variance?

105 R. Barthelmes: Lot configuration. This is the only available area the building could be placed on
106 the site.

107 R. Barthelmes: Reviewed the site plan, access road and traffic flow. The existing ATM machine
108 will be removed and the access road will shift to the East. The entrance road will narrow from
109 two lanes 24' wide to one lane approximately 15' wide. At the beginning of the access road a
110 right hand turn could be made into the proposed bank parking lot. At the end of the access road
111 a left hand turn would be made into the existing parking lot.

112 J. Tymon: Reviewed the conflicts that exist in the traffic flow as reported by the traffic
113 engineer's review and the recommendations made. A truck route for fire department access
114 needs to be shown on the plan.

115 R. Barthelmes: A stormwater management system has been provided on the site. Described the
116 existing draining system and how the proposed system will be tied into that system and re-
117 directed off-site to the Merrimack River. All of the stormwater would be redirected outside of
118 the Lake Cochichewick Watershed Zone. Which is what was required when the Butcher Boy
119 Marketplace was built.

120 J. Tymon: The requirements have changed.

121 R. Rowen: If all the stormwater from the proposed new structure and the new impervious area
122 was redirected off-site to the Merrimack River would it be any worse than it is today? What is
123 going into the Lake today that wouldn't be if this was done?

124 R. Barthelmes: All the grass area outside the high point of the detention basin on the strip along
125 Great Pond Road is going to the Lake today. Included in the application are a Pollution
126 Prevention Plan, Operations and Maintenance Plan for the stormwater management system, and
127 an Emergency Management Plan. Recently comments have been received from the peer
128 reviewers and responses are being worked on.

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129 R. Rowen: Would like to see the calculations for how much area is being infiltrated now and
130 going towards the Lake today vs. how much will be in the new plan.
131 J. Simons: Requested the traffic engineer attend the next meeting. The responses to the peer
132 reviewer comments will be discussed.

133
134 **NEW PUBLIC HEARING: Annual Town Meeting Zoning Articles**
135 **Town Meeting Article to adopt the Town's Zoning Map, in order to adopt as the official**
136 **Town Zoning Map the map created on October 25, 2012.**

137 J. Tymon: This is the first Zoning Map to be accepted by the Town since 1992 or 1993. Over
138 the past year all of the Articles that have been voted on since 1987 have been reviewed to
139 determine if the Zoning Map has been correctly updated to reflect the vote. The shading of the
140 different zoning colors has also been matched to the parcel lines. The new map is not a result of
141 any new zoning to be voted on. It is really just to clean the map up.

142 L. Rudnicki: A disclaimer or notation should be put on the map stating that the written record of
143 the Articles takes precedence over the depiction on the Zoning Map.

144 L. Rudnicki: Made a recommendation that the Zoning Map be adopted as amended. The
145 recommendation was seconded by M. Colantoni. The vote was unanimous 4-0 in favor. L.
146 McSherry, R. Rowen, M. Colantoni, and L. Rudnicki voted in favor of the recommendation.

147
148 **Town Meeting Article to amend Sections 4.121 and 4.122 to allow the keeping of backyard**
149 **hens in Residence 1, Residence 2, Residence 3 and Residence 4 Zoning District.**

150 J. Tymon: This is a Citizen's Petition. Reviewed current Bylaw language and proposed Bylaw
151 changes.

152 Hillary Stasonis, 1514 Salem Street, Representative for the group submitting the Citizen's
153 Petition: Provided a handout summarizing points related to backyard chickens.

154 R. Rowen: Questioned if seven foot fences are allowed in front yards.

155 J. Tymon: Will check with the Building Department.

156 R. Rowen: Expressed that the language related to allowing a neighbor to consent to allowing a
157 coop less than forty feet from a residential structure and a waiver being granted for this condition
158 is not proper language to be put in a Zoning Bylaw.

159 H. Stasonis: Reviewed the points documented in the handout she provided.

160 J. Tymon: There are some very small, non-conforming lots in the Residential zoning districts.

161 H. Stasonis: There has been a lot of discussion related to an acreage requirement. The acreage
162 requirement is only addressing the available space on the owner's land where they can put a coop
163 between their house and a property line. It does not address the impact on the neighbor. That
164 impact is really about the setbacks.

165 R. Rowen: The proposed language for securing of hens in a coop from 'sunset to sunrise' clause
166 is not enforceable by the Town staff.

167 H. Stasonis: The only way to change the language at this point is in real time at Town Meeting.

168 J. Tymon: We can make changes to the language at this meeting and changes can be made at the
169 Town Meeting. The scope can not be expanded.

170 L. Rudnicki: Recommends a larger setback from a residential structure than 40'.

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171 J. Tymon: The Planning Board has until the day of Town Meeting and can make
172 recommendations on the floor. If we want the recommendation printed in the Warrant the
173 recommendation needs to be made tonight.

174 M. Colantoni: If the Board does not vote either way will it still go to a vote at Town Meeting?

175 J. Tymon: Yes, if it is on the Warrant it will be voted on.

176 M. Colantoni: What are the setbacks in those zoning districts?

177 J. Tymon: Communicated the side, rear, and front setbacks for the various zoning districts.

178 R. Rowen: Language could be that it can not be closer than the side setback allowed by Zoning
179 with at least 40' between the coop and the nearest residence.

180 H. Stasonis: Would that apply anyway because, like a shed, it would be considered an accessory
181 building?

182 J. Tymon: There are no setbacks for sheds of a certain size.

183 R. Rowen: Recommended that he would leave it at 40' and have the Town weigh in on it. It can
184 be modified on the floor if necessary.

185 J. Simons: Arrived at 8:07pm.

186 R. Rowen: Provided a summary of what has been discussed related to the proposed backyard
187 chicken Bylaw.

188 J. Simons: Recommended not voting at this time.

189 J. Tymon: Will make the language changes recommended and the Board can consider voting at
190 the May 7, 2013 meeting

191 .

192 **Town Meeting Warrant Article to amend Section 6.5 Prohibited Signs to prohibit off-**
193 **premise signs and overhanging signs.**

194 J. Tymon: This change would modify the Bylaw to allow projecting signs. It would also add to
195 Bylaw language stating that off-premise signs are not allowed.

196 The Board requested that Curt Bellavance attend the next meeting to discuss this change.

197

198 **Town Meeting Warrant Article to amend Section 8.11 in order to put in place a one-year**
199 **Moratorium for Regulations for Wind Energy Facilities.**

200 J. Tymon: The proposed language has been reviewed by Town Counsel. The language has to
201 include an end date for the moratorium.

202 L. Rudnicki: Recommended the date be changed from twelve months beginning June 1, to
203 twelve months beginning July1.

204 J. Simons: Requested that a wind turbine be better defined.

205 A vote will be taken at the next meeting.

206

207 **Town Meeting Warrant Article to amend Section 8.14 in order to put in place a one-year**
208 **Moratorium for Regulations for Medical Marijuana Treatment Facilities (Dispensaries)**

209 J. Simons: The date should be changed to July 1. The "Exclusion of other Marijuana Uses"
210 should be omitted. The numbering needs to be fixed.

211 **MOTION**

212 A motion to recommend favorable action as amended with edits discussed by R. Rowen. The
213 motion was seconded by L. Rudnicki. The vote was unanimous 5-0.

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215 **Town Meeting Warrant Article to amend Section 8.5.7.D Planned Residential Districts**
216 **allow for an increase in height to 35 feet within a Planned Residential District.**

217 R. Rowen: Is the height measured as the average height around the perimeter of the house?

218 J. Tymon: Will bring the definition to the next meeting.

219 **MOTION**

220 A motion to recommend favorable action was made by L. Rudnicki. The motion was seconded
221 by M. Colantoni. The vote was unanimous 5-0.

222
223 **Town Meeting Warrant Article to amend Section 11.5 Planned Development Districts to**
224 **specify the allowable residential density within a Planned Development District**

225 J. Tymon: Curt Bellavance is going to withdraw this Article.

226
227 **Town Meeting Warrant Article to amend Section 18.2 Downtown Overlay District to**
228 **require a Special Permit for developments with more than 10 residential dwelling units.**

229 Board asked what the basis was for the number of units identified.

230 The Board requested that Curt Bellavance attend the next meeting to discuss this change.

231
232 **DISCUSSION**

233 Street Acceptance: Red Gate Lane

234 J. Tymon: The applicant has completed the checklist and is scheduled to be at the Selectmen's
235 meeting on May 6, 2013. G. Willis has submitted a letter of acceptance. The Mylars have been
236 submitted. Town Counsel has communicated that they have received all necessary documents
237 and they do not have any concerns. Based on a site visit conducted today some loom and seeding
238 is needed. The applicant will complete that tomorrow.

239 **MOTION**

240 A motion was made by M. Colantoni to recommend street acceptance for Red Gate Lane
241 contingent upon the applicant finishing the outstanding items identified by the Town Planner.
242 The motion was seconded by L. McSherry. The vote was unanimous 4-0. L. McSherry, R.
243 Rowen, M. Colantoni, and L. Rudnicki voted in favor.

244
245 Street Acceptance: Woodlea Road

246 J. Tymon: This request has been withdrawn.

247
248 **MEETING MINUTES**: Approval of April 2, 2013 meeting minutes.

249 **MOTION**

250 A motion was made by L. Rudnicki to approve the April 2, 2013 meeting minutes as amended.
251 The motion was seconded by R. Rowen. The vote was unanimous.

252
253
254 **ADJOURNMENT**

255 **MOTION**:

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256 A motion was made by R. Rowen to adjourn the meeting. The motion was seconded by M.
257 Colantoni. The vote was unanimous, 5-0.

258

259 The meeting adjourned at 10:05pm.

260

261 MEETING MATERIALS: Agenda, 464 Appleton Street: Site Grading Plan Definitive P.R.D.
262 Subdivision Plan for “Regency Place” in North Andover, MA, Draft PRD Notice of Decision,
263 Draft Definitive Subdivision Notice of Decision, 250 Clark Road: Site Plan in North Andover,
264 MA dated 3/26/2013, Eggleston Environmental review letter dated 4/9/2013, Williams &
265 Sparages response to Stormwater Review dated 4/10/2013, Operations & Maintenance Plan
266 dated 4/9/2013, email dated 4/16/13 from Susan Sawyer (Health Dept.), 0 Great Pond Road:
267 Special Permit – Watershed Permit Application, Site Plan of Land Great Pond Road located in
268 North Andover (3 pages), Architectural Residential Plans dated 3/5/2013 (6 pages), 1077 Osgood
269 Street: Pentucket Bank at Butcher Boy Marketplace 1077 Osgood Street North Andover,
270 Massachusetts 01845 dated March 15, 2013 pages c-1 through c-10, A210, A211, E-1, E-2,
271 Eggleston Environmental review letter dated 4/10/13, Vanasse & Associates, Inc. review
272 response letter dated 3/29/13, Annual Town Meeting Public Hearing: Legal Notice, Zoning
273 Map, Maps: B-1, R-1, R-2, R-3, R-4, R-5, R-6, and VR Zoning Districts, Proposed Zoning
274 Bylaw to Allow the Keeping of Backyard Hens, Area community analysis, Proposed Signs and
275 Sign Lighting Regulations Bylaw changes, Proposed Interim Regulations Wind Facilities, Map
276 wind speeds in North Andover, Area Community Wind Turbine Bylaws, Proposed Interim
277 Regulations Medical Marijuana Treatment Facilities, Proposed Amendment to Zoning Bylaw
278 Section 8.5.7.D, Proposed Amendment to Zoning Bylaw Section 11.5, Proposed Amendment to
279 Zoning Bylaw Section 18 Downtown Overlay District, Eugene P. Willis, PE review letter dated
280 4,2,2013 for Red Gate Lane, 4/2/13 draft meeting minutes.