



Planning Board Meeting Minutes
Tuesday, March 07, 2023, at 7:00 pm – Remote Participation

Members Present:	Diab Jerius, Chair I-Ching Scott	Sally Dale, Vice Chair/Clerk Kurt Spring
Members Absent:	Nicholas Rossettos	
Also Present:	Bryan Manter, Asst. Town Engineer Jay Talerman, Legal Counsel	Nancy Polcari, Recording Secretary WinCam
Others Attending:	Richard Leaf Mark Vaughan John Rufo Susan Carney	Ricky Belliveau Tom Mahoney Michael Wang John Suhrbier Nick Pratt Brian Timm Maura Sullivan David Feigenbaum

A quorum being in attendance, Chair Jerius calls the Winchester Planning Board (PB) meeting to order at 7:04 pm, noting that the meeting is being recorded via WinCam and Zoom. Roll call of PB members: Dale, Scott, Jerius in attendance; Spring arrived 7:20 pm.

1. Updates:

- a. Chair Jerius: The MBTA Section 3A Multi-family Housing working group will be meeting in early April.
- b. Chair Jerius: The chairs of the Historic Commission, Design Review Committee and Housing Partnership Board agreed to be on the search committee for the Town Planner position.
- c. Chair Jerius: Noted that the ability to meet remotely expires March 31st. Legal Counsel has indicated that the legislature is considering extending the date, even permanently.
- d. Chair Jerius: Received a formal request to have a dog grooming company located in the Central Business District. Will put this on a future PB meeting agenda.
- e. Ms. Dale: The community meeting with the Josh Fiala, Massachusetts Area Planning Council (MAPC) be on April 4th. A flyer is available and being distributed. This is regarding the Holten/Cross/Swanton Streets study.
- f. Chair Jerius: The 10-16 Mount Vernon Street project is going before the Disability Access Commission this Thursday.
- g. Ms. Dale: There is a Master Plan Implementation Committee (MPIC) meeting this Thursday afternoon.
- h. Ms. Dale: Continues to work with Ms. Scott regarding the update to the Mass Build data base for Winchester.

2. Rocky Ledge Subdivision Public Hearing Continued:

Chair Jerius: Requested a motion.

Ms. Scott moved to open the continuation of the Public Hearing for the Rocky Ledge Subdivision at 7:15 pm. Ms. Dale second the Motion. Vote: Dale, Scott, Jerius in favor. Motion passes 3-0-0, with Rossettos and Spring absent.

Chair Jerius: Identified the applicant's team attending. Noted the primary focus for today is the peer review of the water, sewer, drainage design.

Mr. Manter: The peer review consultants, Weston & Sampson, continue their work, which consists of three parts: storm water/drainage, sewer, and water. The storm water and sewer

reviews should be done at the end of this week. The water requires a flow test which had to be delayed to this Thursday. Once complete, the consultants expect to have their analysis submitted by March 17th. The application deadline of March 28th will not allow enough time for everyone to review and comment. Recommends extending the deadline by a couple of weeks.

Mr. Timm: (Applicant's Engineer) Concurred with the extension.

Mr. Vaughan: (Applicant's Legal Counsel): Volunteered to assist drafting the decision to expedite the process.

Mr. Belliveau: (Applicant) Also concurred.

Chair Jerius: Suggested extending the application deadline to April 11th and continue the Public Hearing on April 4th.

Mr. Spring moved to continue the Public Hearing for the Rocky Ledge Subdivision to April 4, 2023, at 9:15 pm. Ms. Scott second the Motion. Vote: Dale, Scott, Spring, Jerius in favor. Motion passes 4-0-0, with Rossettos absent.

3. PB Meeting Minutes for February 21, 2023:

Chair Jerius: Any comments?

Ms. Scott: Noted that the minutes did not reflect the discussion of the second means of egress for the 10-16 Mt. Vernon Street project going over the roof top of the adjacent property. Also, the 14 Thompson Street discussion, the wording was not to eliminate but to decrease the visual impact of the supports for the doors.

Mr. Spring moved to approve the PB Meeting Minutes for February 21, 2023, as revised. Ms. Scott second the Motion. Vote: Dale, Scott, Spring, Jerius in favor. Motion passes 4-0-0, with Rossettos absent.

4. Master Plan Implementation Committee (MPIC) Volunteer:

Chair Jerius: Received an application from Susan Carney to join the MPIC.

Ms. Carney: Provided a summary of her experience and background regarding Winchester and her community and volunteering focus. Currently interested in participating in building community in the future, bringing people together.

Ms. Dale: The MPIC is a great platform to integrate her experience for building community for the future, and erase divisions of the past.

Ms. Dale moved to appoint Susan Carney to the MPIC as a 3-year member. Mr. Spring second the Motion. Vote: Dale, Scott, Spring, Jerius in favor. Motion passes 4-0-0, with Rossettos absent.

5. Form + Place Presentation (GBD 3 Test Fits)

Chair Jerius: Michael Wang and John Rufo from Form + Place are here to present their findings on the upper North Main Street study.

Mr. Wang: Provided presentation with slides as briefly summarized:

- Focused on three areas: future development parcels, the public realm, and complete streets concept.
- Two primary "tools" will help achieve the goals: zoning amendments and design guidelines.
- The area studied and presented today is 2/3 of the total North Main Street corridor and runs from Clark Street to the Woburn town line.
- Identified 8 parcels for future development that represent different conditions.

- Identified changes to key zoning variables such as setbacks, building height, parking, frontage build-out.
- The remainder of the presentation focused on test fits applied to each of the 8 parcels.

PB Discussion with Mr. Wang:

- How do we extract from the test fits?
- Have presented high-level goals; do not want the guidelines to be too prescriptive that might deter development.
- Zoning could provide new standards that achieve development goals.
- Suggest creating subdistricts that would have their own character.
- Suggest as a next step to identify values and goals for each section. Compare values to the existing and then propose changes. Want to incentivize development.
- Also need to meet with the MBTA working group regarding the Section 3A zoning and identify its impact to this part of the corridor.
- This presentation provided a lot of interesting material.

Conclusion: PB will review the presentation and discuss at a future meeting. Presentation will also be available on the PB website.

6. Spring Town Meeting Warrant Article 3 – Winchester Zoning Bylaws Section 3.5.5 Revisions:

Chair Jerius: Town Counsel, Jay Talerman, and David Feigenbaum, Chair of the Zoning Board of Appeals (ZBA), are here to participate in this discussion regarding Article 3, Revisions to the Zoning Bylaws Section 3.5.5 (single and two-family properties). The understanding was to change the language in the zoning bylaw to make it consistent with current practice to alleviate different interpretations and ambiguity. If want to change the terms for the variance and special permit processes, the language would require much more work. This Article 3 adjusts the language to clarify and reflect the current practice. The ZBA felt this language was more permissive than the current bylaw.

PB Discussion with input from Mr. Talerman:

- In a recent ZBA petition, the applicant was increasing an existing nonconformity by an inch, and it was processed as a Special Permit.
- What does it mean to increase a nonconformity? Is it qualitative or quantitative?
- For single and duplex residences, the issue is more qualitative. Was that inch detrimental to the neighborhood?
- The bylaw in paragraphs 1, 2, and 3 are by-right conditions.
- The bylaw was adopted between two case law (the Gale vs Gloucester Case and the Dearick Case, which addressed new nonconformities). This current bylaw only addressed the first case. The edits address the Dearick Case and avoids ambiguities.
- Building Commissioner (BC) has the authority to determine qualitative issues. However, if there is a possibility a neighbor would want to comment, then the BC should send it to the ZBA for a public process.
- For the encroachment of an existing nonconformity by one inch, the BC could determine that it is a small change and issue a permit; a situation that no one would reasonably object.
- The ZBA retains the authority to deny a Special Permit.

Mr. Feigenbaum: If an applicant wants a new nonconformity, they need a variance. The difficulty is the ZBA “waves” through the applications as Special Permits. The ZBA may have the right to deny them. But Special Permits go through. Anecdotally, there is a perception that this happens a lot. Need to go back and identify how many times this happens. This occurs mostly in the north section of town. With the new language, developers will now aggressively want to build and encroach on adjacent properties. It will now be easy. It will make a mess out of the neighborhood. It will get rid of a lot of affordable housing. Will result in bigger houses. This is also unfair. A nonconforming property will get a Special Permit and a nonconforming property will require a Variance. (Mr. Talerman noted this currently exists now.) Suggested working together to determine the best language.

Chair Jerius: In response, with the current bylaw, the Town has not seen these massive encroachments or structures. The ZBA has always been able to deny a Special Permit. And his comments are based on several discussions with the BC, who has a long history with the Town.

Mr. Talerman: Do not recommend making the language too precise, as it leads to litigation. This language gives the ZBA wide discretion on quantitative interpretation. Recommends omitting the ambiguity with this language change. There are two reasonable interpretations of the existing bylaw language, but one is more reasonable. This is reason enough to make the changes.

Chair Jerius: For new nonconformities to an existing nonconforming property, current language requires a Variance process. However, past practice, most are processed as Special Permits. This new language reflects what currently happens and also supports case law.

Ms. Scott moved to put Article 3 on the Spring Town Meeting warrant. Mr. Spring second the Motion. Discussion: Add the notation that “by making this change, this language is codifying existing practice, removing the ambiguity”. Vote: Dale, Scott, Spring, Jerius in favor. Motion passes 4-0-0, with Rossettos absent.

7. Adjourn:

Mr. Spring moved to adjourn the PB meeting of March 07, 2023. Ms. Scott second the Motion. Vote: Dale, Scott, Spring, Jerius in favor. Motion passes 4-0-0, with Rossettos absent. Meeting adjourned at 10:06 pm.

Sally Dale, Clerk

Nancy Polcari, Recording Secretary