



Chelmsford Planning Board

Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824

Town Clerk Stamp



MEETING MINUTES

May 11, 2022

TIME: 7:00 p.m.

LOCATION: Town Offices, 50 Billerica Road, Chelmsford, MA

ROOM: 204

Members Present: Michael Raisbeck, Chair
Deirdre Connolly, Vice Chair
Nancy Araway, Clerk
Michael Walsh
Annita Tanini
Tim Shanahan (via Zoom)
Paul McDougall

Others Present: Evan Belansky, Community Development Director

Chairman Shanahan called the meeting to order at 7:00 p.m.

PUBLIC INPUT

No one from the audience, nor Zoom, spoke.

BOARD'S PUBLIC HEARING

The Board held a special Public Hearing to receive public comment:

- 1) To amend Chapter 202 Subdivision of Land, Article III Design Standards and Improvements, section 202-12 (f), 202-13.B (2) (a), section 202-14. A, B, C, D, E and G, section 202-17.B, section 202-19. A and D, 202-21, 202-22, for purposes of amending existing provisions and adding new provisions related to stormwater and Low impact development standards.
- 2) To amend the Planning Board Site Plan and Special Permit Regulations and Procedures, Adopted: April 26, 2000 and most recently revised August 12, 2009, sections 2.4, 2.6, 2.8.6, 2.8.8, 2.8.9 and 2.8.11 for purposes of amending existing provisions and adding new provisions related to stormwater and Low Impact Development (LID) standards.

Courtney Thompson, Town Stormwater Engineer, was present to represent the proposed amendments. Ms. Thompson explained that the proposed amendments to the site plan, the special permit regulations and procedures, and the subdivision of land are such to keep the Town in compliance with its Stormwater

Bylaw. Otherwise, our current planning, zoning, and stormwater bylaws and regulations contradict each other.

- EPA Municipal Separate Storm Sewer System (MS4) Permit allows the Town to discharge stormwater to the water of the U.S.A.
- MS4 Permit requires that permittees must update their regulatory mechanism, per Part 2.3.6 of the 2016 MA MS4 permit
 - Permittees shall develop, implement, and enforce a program to address post-construction stormwater runoff from all new development and redevelopment sites that disturb one or more acres and discharge into the permittees MS4 at a minimum.
 - Permittees must modify their regulations to encourage low impact development (LID).
- The Chelmsford Stormwater Bylaw was passed in Spring 2021 Town Meeting. It was the first step toward complying with EPA Municipal Separate Storm Sewer System (MS4) Permit. The proposed amendments to Town Code will help keep consistency and compliance throughout Town regulations.
- Bylaw Revisions:
 - Zoning Code Revisions – Approved at Fall 2021 Town Meeting
 - Subdivision Code Revisions – Need Planning Board approval
 - Site Plan and Special Permits Regulations and Procedures Revisions – Need Planning Board approval
 - DPW Stormwater Management Bylaw and Regulations – Approved at Spring 2021 Town Meeting

Ms. Thompson summarized the needed revisions, as presented in her handout and presentation, for:

- Chapter 202: Subdivision of Land, and
- Site Plan and Special Permit Regulations and Procedures.

Repercussions if the Town does not revise the codes:

- The stormwater regulations remain antiquated and not cohesive with the new stormwater bylaw
- The Town is not compliant with the EPA MS4 Permit
- The Town could get fined by EPA

Benefits to the proposed amendments:

- Encourages better landscaping and green infrastructure
- Improves water quality
- Encourages groundwater discharge
- Improves erosion control
- Improves aquatic and wildlife habitat
- Compliance with EPA Permit

Chair Raisbeck opened the floor for public comment. No one spoke.

Chair Raisbeck stated that all the proposed amendments are in keeping with discussions over the past year.

Motion: by Ms. Araway to close the Public Hearing. Seconded by Mr. Walsh.

Motion carries, unanimously, 7-0.

Motion: by Ms. Araway to APPROVE the proposed amendments, as presented.
Seconded by Ms. Tanini. **Motion carries, unanimously, 7-0.**

ADMINISTRATIVE REVIEW

1. ANR # 674 – 14 & 16 Pleasant Street, William Kelleher and Tabitha Upton Request for Endorsement – Land swap between abutting parcels

Board Discussion:

The proposed land swap takes the shed away from the property line, as presented on the proposed plan. The ANR does not make the lot any more non-conforming.

Motion: by Ms. Araway to ENDORSE the ANR with no determination as to zoning.
Seconded by Ms. Tanini. **Motion carries, unanimously, 7-0.**

2. Barnes Terrace – Request to Endorse Final Plans and Covenant

Ms. Hannah Palmer, representing the applicants, presented the Board with Form J Covenant signed by the owners of Lots 2A and 2B on Barnes Terrace.

Mr. Belansky stated to the Board that the signed Form J is boilerplate, the Decision has been filed with the Town Clerk, but is still in the appeal period. The Applicant has provided the final mylar plans for endorsement. Two votes are needed by the Board tonight to 1) endorse and sign the final plans, and 2) endorse the signed Covenant.

Ms. Araway asked if the final plans were reviewed by the Town Engineer, or BETA the Town's peer reviewer. Mr. Belansky answered that the reviewer at BETA Group, Phil Paradis, is on vacation. The Board has the option to vote to withhold the ANR conditional until Mr. Paradis returns, continuing this administrative review for the purpose of reviewing any final comments from BETA. However, it is Mr. Belansky's understanding that the last response to comments from the applicant's engineer was in keeping with Mr. Paradis' recommendations. Chair Raisbeck agreed.

Motion: by Ms. Araway to ENDORSE the Final Plans contingent upon BETA Group's final sign off on the final plans. Seconded by Ms. Connolly. **Motion carries, unanimously, 5-0.** Members Tanini and McDougall abstained.

Motion: by Ms. Connolly to ENDORSE "approve and accept" the Covenant for Barnes Terrace. Seconded by Mr. Walsh. **Motion carries, unanimously, 5-0.** Members Tanini and McDougall abstained.

3. Off Billerica Road – Map 98, Block 271, Lot 1 – CEIOD applicability

Ms. Katie Enright, of Howard Stein Hudson, representing Eric O'Brien and 10X Storage. Mr. O'Brien is both the real estate agent working to sell this property and he is also partnered with 10X Storage.

Historically, Ms. Enright has been working with Doug Landry who was owner both 11 Walters and is also owner of this side of the road. Ms. Enright has designed many concept plans for this site, for a variety of uses. It is now being considered for a self-storage business.

This site is located on 10 acres, and is somewhat an island behind the Forum, its access is through Billerica on Brick Kiln Road, it also has a 50-foot-wide easement that was put in place in 1964 going over the road to access this parcel. It is in the IA-District (industrial). Oddly it is not within the BAOD-district even though the properties across the street are. It is covered with the CEIOD (Community Enhancement Investment Overlay District) within the IA, it's also within the aquifer protection district. They are proposing this site be considering for an Aquifer Protection District Permit, and a Major Business Complex Permit because of the size of the proposed building.

The reasons they are proposing a self-storage business use for this property are:

- Extremely low traffic use
- Extremely low sewerage (not only is there a sewer moratorium, but there is no sewer located on site)
- Extremely low parking
- Off-peak hours usage
- More building than pavement (meaning the stormwater coming off this building is clean)
- Proposed building: Footprint is approximately 12,000 sq.ft., building dimensions approximately 165' x 75', and 6-stories in height (smaller footprint than the Grist Mill Building).

Although this will be the first time the Board will be considering a 6-story building, it is allowed by Right within the CEIOD bylaw and this entire area. It is allowed across the street, all throughout Route 129, up to and including 270 Billerica Road. To make the property economically viable they need the six stories for the proposed storage-unit use.

The proposed site is also the lowest site (topographically) out of any other site within this six-story allowed district. In fact, the site is 25-feet lower than the topographical grade at the ramp off Route 129. About two stories lower than the ramp.

The abutters are the Forum, Rt. 129, and the ramp and the highway of Route 3. The building will be located at a good distance from each. The surrounding area is wooded and wetlands.

10X Storage has also had projects located in Marlborough, Acton, and Worcester. The handout distributed to the Board shows what the buildings look like at those sites, and they do vary a bit. They've designed their proposal with appropriate access for the fire truck and tractor trailers.

There was an internal department head meeting yesterday with Fire, Engineering and Building to make sure there wasn't any other concerns with this concept plan, given the different site use.

Board Discussion:

Ms. Tanini thinks this is a great use idea for this location. But is concerned about the wetland flooding issue associated with this area, road flooding, East Chelmsford Water District and Lowell canals abut as well. Asked if this proposal would be applying for applicability with Conservation. Ms. Enright stated that the project will be filing a Notice of Intent with the Conservation Commission. The

property's upland area is completely within the 100-foot buffer zone. They will abide by the local bylaw which is 25-ft no touch zone, 30-ft no pavement, and 50-ft no building. The project will be designed to meet stormwater compliance for both MA regulations and local bylaw, as well, and will be peer-reviewed. The majority of the water coming off the site will be considering "clean" coming off of the roof, therefore can be infiltrated directed into the ground.

This proposal will also be reviewed and approved by the Town of Billerica, because property access is at the intersection of Brick Kiln Road within Billerica.

Driveway/roadway access will be 20-ft wide for fire-truck access purposes. Potentially adding guard rails since the road access is surrounded by wetlands on both sides.

Ms. Araway is concerned about bringing the property roadway out directly into an existing intersection. Concerned with the six-story building. The Board has historically rejected six-story projects because of the big blank wall for storage along the highway. If this proposal returns for approval, she would like to see some architectural considerations to building to make it more appealing. Ms. Enright stated that one of the positive aspects of this proposal is that it does have the distance and vegetation topography for the sight lines. Another concern is the surrounding flood zone. Ms. Enright stated she will double-check to make sure the property is not located within the floodplain.

Mr. Walsh wanted to clarify that the presentation today is for CEIOD applicability only. Ms. Enright stated that this will be a CEIOD filing and asking for a Special Permit to allow a six-story structure. Six-story structures are not allowed with CEIOD. Also wanted to confirm that the proposed building is outside the no-touch wetland buffer zone. Ms. Enright explained that she doesn't have the closest area distance at this time. Once the project moves from conceptual plan to full architectural and engineering plan designs all the dimensions will be detailed. She did state that are come points the building may come right up to 50.1 feet from the wetland delineation which is allowed by Conservation Commission's bylaw.

Mr. McDougall had no comments or questions at this time.

Ms. Connolly asked to confirm that there is no pavement within the 30-ft buffer? Ms. Enright stated there is a little section of sidewalk and wall, but it can be moved out. Ms. Connolly asked if Chelmsford currently has any six-story buildings. Ms. Enright responded that the bylaw allowing six-story buildings up to 90-feet in height within the BAOD (Business Amenities Overlay District) was recently approved. They were not allowed before the BAOD approval. There are older buildings such as The Mill in North Chelmsford that are six-stories and other buildings over 45-feet in height, as well.

Ms. Connolly shares Ms. Tanini's concerns regarding the proximity to the wetlands, the ongoing flooding issue regarding the septic system, and the overall safety of the proposed private driveway/roadway.

Ms. Enright explained that the septic system is located in the parking lot area, in front of the building. It will need Board of Health review and approval. The septic will comply with all Title 5 (MA state) laws and the local Board of Health regulations.

Mr. Belansky clarified that the Chelmsford Water District is aware of this project. They were not able to attend yesterday's department head meeting but provided some comments. The property adjacent to this parcel has water wells owned by the main/center water district, over by Canal Street. It's one of their major wellfields and falls within their Aquifer Protection District.

Ms. Tanini suggested that East Chelmsford Water District should also be involved in the review of this project, due to who will be supplying water to this site. Mr. Belansky understood the concern and agreed.

Mr. Belansky explained that in past projects, the water district has required monitoring wells or increased spill contamination controls to protect their resource.

Chair Raisbeck clarified that endorsing Applicability related to the basic concept of a project is consistent with the overlay district and does not endorse or include the permitting details of the project itself.

Ms. Tanini has an ethical issue with the height of the proposed building. Although she is in favor of the proposed building use, she believes it is unethical to vote in favor of a Special Permit because the proposal goes beyond 50% of the current zoning for the height within that district, as approved by Town Meeting. She believes it goes beyond the amount allotted within state law.

Mr. Shanahan did not have any questions or comments.

Chair Raisbeck believes that at this stage, the proposal meets Applicability. Regarding height, it is within the Board's scope of work to grant the Special Permit for that. If it were unethical, the Town would not allow such Special Permits within the existing bylaw. Granted the Board needs to consider whether it is appropriate for each individual site.

Mr. Walsh expressed concern that endorsing the Applicability may give false approval of endorsing the six-story building, if indeed the topic is concerning and may not get approved.

Ms. Enright stated that if six-stories is not allowed, then this project goes away. The applicant will not invest \$100,000 in engineering design and details for permitting purposes if there is a possibility that a six-story building will not be approved. The proposed self-storage building usage will only be economically viable at six-story capacity.

Mr. O'Brien stated the corner of the building facing the southwest side would have a three-story architectural display, probably made of glass, to make it visually pleasing. Otherwise, it would look like a prison building. He is not opposed to additional windows, as well, to make it look nice. That is a goal. But they really do struggle with the amount they can spend on design for a storage use. Anything below six-stories would only break even in costs. Mr. O'Brien will get back to the Board with examples of other esthetically pleasing six-story storage buildings.

Ms. Enright suggested she return in two weeks, May 25th, with architectural concept design for the building façade. If the design is not complete by next Friday, she will request a continuance until June 8th.

Motion: by Ms. Araway to continue this administrative review to May 25, 2022.
Seconded by Mr. Walsh. **Motion carries, unanimously, 7-0.**

4. 9 Acton Road – Special Permit VCOD – Review and ratification of draft Decision

Mr. Belansky reviewed the draft Decision he has submitted to the Board.

Motion: by Ms. Araway to ratify the Certificate of Decision for 13 Acton Road (a/k/a 9 Acton Road), as presented tonight. Seconded by Mr. Walsh. **Motion carries, unanimously, 6-0.**
Member Tanini abstained.

CONTINUED PUBLIC HEARING(S)

1) **The Davis Companies on behalf of DIV Riverneck, LLC, for properties located at 191, 195, 199-201 Riverneck Road** for the demolition of the existing structures and construction of a 247,860 +/- square foot industrial warehouse building with integrated surface parking, loading facilities and on-site infrastructure improvements.

The site is in the IA and RB zoning districts and is shown as parcel Id Map 64, Block 275, Lots 4, 5, 7 and 16 and consisting of approximately 21.03 acres. The applicant requests approval under Article XXIV, Route 129 Business Amenities Overlay District (BAOD) and Article XXI, Community Enhancement and Investment Overlay District (CEIOD) sub-sections 195-111 D, 195-115, 195-116, and associated Special Permits per Article XIV Aquifer Protection District, sub-section 195-74, Article XV Floodplain District, sub-section 195-82, Article XI Major Business Complexes, and any other permit relief, including but not limited to Articles V and IX, as may be required under the Chelmsford Zoning Bylaw to allow the proposed use/project.

Applicant submitted a written letter requesting their Public Hearing be continued onto the following Board meeting on May 25th.

NO TESTIMONY - CONTINUED TO MAY 25th

Motion: by Ms. Araway to continue the Public Hearing for Riverneck Road to May 25th at Town Offices, Room 204. Seconded by Mr. Walsh. **Motion carries, unanimously, 7-0.**

CONTINUED PUBLIC HEARING(S): None.

NEW PUBLIC HEARING(S): None.

NEW BUSINESS: *Scheduling of next Work Session*

Ms. Virginia Timmins, 28 Lovett Lane, Select Board Member, was present to invite the Planning Board and Finance Committee to the next Select Board meeting on June 6th for a tri-board discussion regarding some recent state related information that may require an urgent decision. The Select Board feels that it's best to have all three Boards be knowledgeable of the recent state webinar information from the start and begin needed discussions. In the end, it becomes a zoning issue so it's important to all everyone aware and involved. No decisions are expected to be made that evening. It's solely for informational purposes only.

On June 13th the Board will host a listening meeting at the Chelmsford Center for the Arts pertaining to future Center improvements (i.e. sound system improvements for Center events). The Board wants to be sure that whatever improvements they are considering are in concern with what other committees or boards are also wanting and working toward. The Select Board decided to host this listening session at the end of the fourth quarter to gather ideas for future planning purposes. It will also be open to the public for input.

Mr. Belansky noted that although the Board was interested in scheduling another Working Session, the calendar is quickly filling up for June. The Board also needs to decide whether it will continue to meet twice a month for hearings during the summer months. The Board agreed to keep the designated two meetings per month throughout the summer. If there isn't a need for a second permitting meeting, then the date is already reserved, and the Board can use it as a Working Session.

The Town typically requires articles for Fall Town Meeting to be submitted in August, so that is something to keep in mind too. The Board usually wraps up discussions and has a public hearing in late-August or early September for public comment on proposed articles.

Mr. McDougall suggested working on follow ups to recent NMCOG work session meeting, so that the Board can schedule a second meeting with them as soon as possible.

MEETING MINUTES TO APPROVE: April 27, 2022

Motion: by Mr. Walsh to approve the Meeting Minutes of April 27, 2022, as presented.
Seconded by Ms. Araway. **Motion carries, unanimously, 7-0.**

NEXT MEETING DATE(S) May 25th relocated to Town Offices, Room 204
June 8th – location TBD

ADJOURN

Motion: by Ms. Connolly to adjourn the meeting at approximately 8:24 p.m.
Seconded by Mr. McDougall. **Motion carries, unanimous 7-0.**

Respectfully Submitted,

*Becky DaSilva-Conde
Departmental Assistant*