



Town of Ashland

MASSACHUSETTS

Planning Board Meeting Minutes

Select Board Meeting Room / Zoom Conferencing
Town Hall, 101 Main Street, Ashland, Massachusetts 01721

June 29, 2023, at 7:15 PM

Minutes Approved on September 14, 2023

1 Present: Tricia Kendall, Chair
2 Anna Tesmenitsky, Vice-Chair
3 Catherine Jurczyk, Clerk
4 Marcelo Arjona, Member
5 Deepa Venkat, Member
6 Kevin McClean, Assoc. Member

7
8 Others: Peter Matchak, Town Planner
9

10 **Call to Order**

11 Anna Tesmenitsky called the meeting to order at 7:19 m. She mentioned that the session was being
12 recorded and broadcast. Ms. Tesmenitsky reviewed the meeting agenda.
13

14 **Clerk's Report**

15 Catherine Jurczyk, the Planning Board Clerk, reported that the board had received nine
16 correspondence since the last official Clerk's Report on May 11, 2023. The Town Planner, the Clerk,
17 or the Chair responded to eight. She noted that one correspondence was received today.
18

19 Ms. Jurczyk said she would request a correction concerning a resident's email that stated she and the
20 Town Manager met with the Whittemore Subdivision neighborhood, as she was not present at that
21 meeting. She said she would "reply all" because the email was sent to the state government.
22

23 **Public Comment:**

24 Ms. Tesmenitsky explained that this section is for general public comments, as the board prefers
25 project-specific public comments be made during the scheduled public hearing.
26

27 Joel Arbeitman commented on the need to integrate the Upper Charles Trail planning and projects
28 that go before the Planning Board. He endorsed the suggestion to have the Select and Planning
29 Boards meet to ascertain the status of the Upper Charles Trail project.
30

31 Mark Dassoni asked for the town to update its zoning codes.
32

33 **Public Hearings:**

34 **Planning Board Review and Discussion of the Whittemore Estates Definitive Subdivision**

35 Mr. Matchak read into the public record the Whittemore Estates subdivision installation status per
36 Chapter 41, Section 81K through 81GG of the Massachusetts General Law and Chapter 344
37 (Subdivision of Land) of the Ashland Bylaws rules and regulations regarding the subdivision of land
38 construction and installation of a subdivision. He said the Planning Board endorsed the subdivision
39 on July 11, 2019, and recorded plan number 649 of 2019. More than two years have passed since
40 the plan was approved.

41
42 Town Counsel Brian Winner, of Mead, Talerman, and Costa LLC (Town Counsel), provided additional
43 background. He said he interviewed several town officials and obtained documentation concerning
44 the initial permitting and the build-out phases of the larger portion of the subdivision, and based on
45 that information, it became apparent that there were deficiencies in the construction of the
46 subdivision, confirmed by peer review consultant GCG Associates. Mr. Winner also met with the
47 Select Board and the Conservation Commission (ConCom) and prepared a Town Counsel demand
48 letter, which is a public record, to put the developer on notice that the town intends to pursue
49 specific claims if satisfactory remedial action does not occur. The developer has 45 days from the
50 filing of the notice to act; if not, the town may pursue the security bond, which is approximately
51 \$350,000. Mr. Winner said the board must vote to accept and adopt the demand letter. He
52 encouraged the members to allow public comments. Still, he advised them to refrain from discussing
53 the town's potential litigation position or strategy concerning future enforcement, which should be
54 addressed in an executive session.

55
56 Tricia Kendall, the Planning Board Chair, joined the meeting remotely due to scheduled travel plans
57 and commented on the email correction Ms. Jurczyk requested during the Clerk's Report. Ms.
58 Kendall explained that she attended a meeting with Whittemore Estate residents last Friday, and the
59 resident's email mistakenly noted Ms. Jurczyk's name instead of hers.

60
61 The board asked Mr. Winner several questions, including whether pursuing the security bond was
62 the town's only option to ensure compliance, if there was a deadline for the town to take action, and
63 how to guard against significant delays that could exacerbate the existing issues impacting the
64 residents. Mr. Winner responded that another option is to notify the developer, so they may
65 voluntarily comply or equitable enforcement that involves taking legal action. The town has no
66 statutory deadline to act; however, the process may be iterative if conservation and subdivision
67 compliance is not achieved in 45 days.

68
69 Due to conservation violations pursuant to Chapter 40, Section 21D, Mr. Matchak and Mr. Winner
70 explained that the fines that were issued since April 2002 are on a separate track and that the
71 Conservation Agent, Becca Solomon, is onsite every day taking pictures to validate daily and weekly fines.

72
73 Ms. Tesmenitsky opened the meeting for public comments.

74
75 Arnold Cohen, the attorney representing Chelsea Developers, said they want to finish the project and
76 the items on the punch list.

77

78 Mark Dassoni, 49 Hawthorn Rd., commented on the outstanding issues and asked why it took this
79 long to address them.

80
81 Joel Arbeitman, Chair of the Upper Charles Trail Committee, commented on the easement the town
82 was granted along the parcel labeled 6 Burnham Circle and the need to address the abutting
83 resident's concerns regarding the biking trail.

84
85 Tom Laurino, 6 Burnham Circle, said substandard fill materials were used in the development and
86 asked whether that would be/ addressed. Mr. Winner said addressing the issue would be done
87 separately from today's activities.

88
89 Mr. Winner stated that the Subdivision Control Law allows a statutory process for the town to
90 increase the security bond as deemed necessary. The board noted the importance of connecting
91 Town Counsel to the residents, and sharing the subdivision deficiency list, to ensure all issues are
92 addressed.

93
94 Sean Cavanaugh, of the Whittemore Estates homeowner's association (HOA) changed to oversee and
95 maintain the stormwater systems gave a historical perspective of the development of the six homes
96 fronting Whittmore Drive (32 Whittemore Drive - 42 Whittemore Drive) and the seven lot subdivision
97 known as Whittemore Drive Estates. Mr. Cavanaugh noted the several parties involved in addressing
98 the stormwater issues, including the developer, the HOA, and the town. The Whittemore Estates
99 HOA is invested to make sure all infrastructure is installed to plan and the system is maintained as
100 these are the headwaters for the Indian Brook. Mr. Cavanaugh expressed concern to the Planning
101 Board of the responsibility of the developer to build a functioning stormwater system prior to
102 handing over responsibility to the HOA made up of Ashland residents.

103
104 Vivian Williams, 30 Whittemore Dr., commented on the steep pitch the residents' homes are on, the
105 subgrade soil, and ConCom and the Planning Board's 2014 recommendation to install a stormwater
106 system to resolve the issues. She said, ultimately, the land should never have been developed. Ms.
107 Williams said the HOA could not maintain a system until it is installed correctly and a functioning
108 roadway is built. She implored the board to assist. Mr. Winner noted that not all residents' specific
109 issues fall under subdivision compliance within the board's purview.

110
111 Mr. Winner clarified that GCG Consultant's letter dated April 7, 2023, reflects an inspection date of
112 April 4, 2023, and that a site visit was made as Mr. Matchak requested to review the work's current
113 status. Therefore, April 4th is the operative date for the \$350,000 surety bond, and only the
114 deficiency items identified by GCG are tied to the security.

115
116 Mr. Arjona motioned to approve the notice of deficiencies with the amendment suggested related to
117 the correspondence that the board received from GCG Consultants, and the signature block shall
118 state, "duly authorized by vote of the Planning Board 6/29/23". Ms. Jurczyk seconded. Venkat-aye,
119 Tesmenitsky-aye, Arjona-aye, Jurczyk-aye, and Kendall-aye; vote of 5-0-0.

120
121 **16 Union St. – Definitive Subdivision Plan**

122 Mr. Matchak noted that the applicant had requested a continuance to July 27, 2023, and Sean
123 Malone, the project engineer, granted the Planning Board an extension until August 31, 2023, to act
124 on the subdivision.

125
126 Due to rescheduling the July 27th Planning Board meeting, the members continued the hearing until
127 August 10, 2023.

128
129 Ms. Jurczyk motioned to continue the 16 Union St. Definitive Subdivision Plan hearing to August 10,
130 2023. Ms. Tesmenitsky seconded. Venkat-aye, Tesmenitsky-aye, Arjona-aye, Jurczyk-aye, and
131 Kendall-aye; vote of 5-0-0.

132
133 **9-49 Homer Ave. – Site Plan and Special Permit**
134 Ms. Kendall noted that the applicant had requested a continuance to July 27, 2023; however, the
135 board would schedule the hearing on August 10, 2023. Mr. Matchak noted that the applicant is
136 expected to meet with the Design Review Committee (DRC) on July 20, 2023.

137
138 Mr. Arjona motioned to continue the 9-49 Homer Ave Site Plan and Special Permit hearing on August
139 10, 2023. Ms. Jurczyk seconded. Venkat-aye, Tesmenitsky-aye, Arjona-aye, Jurczyk-aye, and
140 Kendall-aye; vote of 5-0-0.

141
142 **Review Draft Decision and Consider Vote on 50 Megunko Rd.**
143 Mr. Matchak said the edits Ms. Jurczyk emailed were included in the draft decision distributed to the
144 board. Ms. Kendall asked to ensure a note regarding accessibility from the walkway into the building
145 is included, and a permanent sign would require the Building Commissioner’s approval.

146
147 Ms. Jurczyk motioned to accept the Certificate of Approval Site Plan Modification for 50 Megunko
148 Rd., with the edit discussed this evening. Mr. Arjona seconded. Venkat-aye, Tesmenitsky-aye,
149 Arjona-aye, Jurczyk-aye, and Kendall-aye; vote of 5-0-0.

150
151 **MBTA Memo Planning Department**
152 Mr. Matchak provided an update on the information he presented at the previous board meeting.
153 He said the minimum 20 percent of MBTA District's land area must be within the quarter-mile buffer.
154 Fifty acres at total capacity would be 23 units per acre to lessen the density, and the buffer coverage
155 area would be 75 acres at a minimum.

156
157 The members agreed to schedule a joint meeting with the Select Board within the next few months
158 to discuss this matter further. They also asked Mr. Matchak to post information about the MBTA
159 Communities and a map that depicts the half-mile radius from the Ashland MBTA station for the
160 residents' consumption.

161
162 Amanda Walsh thanked the board for being willing to post information about MBTA Communities
163 and asked if public input would be of interest.

164
165 **Review Associate Planning Board Member Position**

166 Ms. Tesmenitsky reported that the three-year associate position that Kevin McClean is filling expires
167 at the end of the month and that she and Ms. Kendall drafted a notice for a candidate to fill the
168 position. The notice will be posted on the town’s Talent Bank site, the Town Manager’s Newsletter,
169 and other public sites, with an application deadline of July 31, 2023.

170

171 **Clarification/Update of 10-60 Main Street Select Board discussion from April 26, 2023**

172 Ms. Jurczyk said a constituent contacted her and referenced a Select Board meeting when they
173 discussed a development agreement at 10-60 Main St. and asked for more information, given the
174 project is before the Planning Board. Ms. Kendall said she looked into this, and the Select Board was
175 provided an update on the exploratory conversation she had with Town Counsel Lisa Mead and the
176 Town Manager regarding the use of Community Preservation Committee (CPC) funding. She also
177 mentioned that the Select Board discussed an email from the Department of Environment Protection
178 (DEP) concerning contamination from the plume and other contaminants from the original use of the
179 building at 10-60 Main St.

180

181 The member discussed an additional Planning Board agenda item regarding noteworthy project updates.

182

183 **Report on Planning Topics:**

184 Economic Impact Tool

185 Mr. Matchak reported that he learned that neighboring towns need an economic development tool.
186 However, they were interested in Ashland’s tool. He also met with Framingham State University and
187 Merck to discuss ways they can introduce a development tool to other communities.

188

189 Scenic Roads Outreach

190 The Planning Office continues to work on the scenic road outreach. Mr. Matchak and Roy Carrera
191 are working on reports to document the removal of a few trees on Olive St. that were deemed rotted
192 and removed under emergency action. The members discussed developing a mechanism to track
193 tree and stump removal and tree replacement and replanting.

194

195 Parking Memo

196

197 Update on Housing Moratorium

198

199 **Reports from Board Members and Town Planner:**

200 Comprehensive Plan

201 Mr. Matchak said the Comprehensive Plan project team met and voted to move ahead and request
202 the Town Manager sign a contract with Goldson.

203

204 Design Review Committee (DRC)

205 Ms. Kendall reported that Kevin Mowatt, an architect and Vice Chair of the DRC, has a term that
206 expires at the end of the month and would like to be reappointed. Therefore, this item will be added
207 to the next Planning Board agenda.

208 Sustainability Committee

209

210 Community Preservation Committee (CPC)

211
212 Other
213 Mr. Matchak noted that Evan White, the Dept of Public Works (DPW) engineer, and the Stormwater
214 Committee are working on updating the MS4. He recommended that the board schedule a joint
215 Stormwater Committee and ConCom meeting on stormwater matters.

216
217 Mr. Matchak and the members thanked Kevin McClean for his time and efforts volunteering on the
218 Planning Board.

219
220 **Administrative Matters: future meetings, public hearings**

221 Future Joint Meeting with Historical Commission: TBA

222

223 Future Retreat Date

224

225 Applications Received

226

227 Next Meeting

228 The next meeting is scheduled for July 13, 2023.

229

230 Minutes Review

231 Ms. Kendall motioned to accept the minutes of the March 1, 2023, Joint Meeting with the Planning
232 Board and the Select Board RE Wildwood Covenant minutes, as drafted. Ms. Venkat seconded the
233 motion; Venkat-aye, McClean-aye, and Kendall-aye, with a vote of 3-0-0.

234

235 Ms. Tesmenitsky motioned to accept March 1, 2023, Joint Executive Session with the Select Board RE
236 Retail Ashland, LLC vs. Planning Board minutes, as amended. Ms. Kendall seconded the motion;
237 Venkat-aye, Tesmenitsky-aye, McClean-aye, and Kendall-aye, with a vote of 4-0-0.

238

239 Ms. Tesmenitsky motioned to accept April 27, 2023, Planning Board minutes, as amended. Mr.
240 Arjona seconded the motion; Venkat-aye, Tesmenitsky-aye, Arjona-aye, Jurczyk-aye, and Kendall-
241 aye, with a vote of 5-0-0.

242

243 **Adjournment**

244 Mr. Arjona motioned to adjourn the meeting at 10:28 pm. Ms. Tesmenitsky seconded the motion;
245 Venkat-aye, Tesmenitsky-aye, Arjona-aye, Jurczyk-aye, and Kendall-aye, with a vote of 5-0-0.

246