



TOWN OF
STONEHAM
MASSACHUSETTS

PLANNING BOARD
781-279-2695

STONEHAM PLANNING BOARD MINUTES

(in accordance with provision of M.G.L. c.30A, §§ 18-25)

Wednesday, October 12, 2022

Town Hall
Hearing Room
7:00 PM

Members Present: Chair Frank Vallarelli, Vice Chair Kevin Dolan, Daniel Moynihan, Jr., Terence Dolan and Marcia Wengen.

Also present at the meeting: Town Clerk Maria Sagarino acting as Planning Board Clerk, Director of Planning and Community Development Erin Wortman, DPW Director Brett Gonsalves, Attorney Charles Houghton, Landers Symes and Jeff Rhuda of Symes Development & Permitting, Rich Williams of Williams & Sparages Engineering, residents Ellen McBride, Anthony Wilson and Raymie Parker.

The Chair brought the meeting to order at 7:03PM.

Mr. Vallarelli introduced the members of the Board. He then made a statement that he would be recusing himself from the first public hearing for 62 High Street as his real estate office would be selling the property.

Vice Chairman Kevin Dolan read the legal notice for 62 High Street into the record as follows:

“You are hereby notified that the Stoneham Planning Board will hold a Public Hearing, in the Hearing Room, Town Hall, on Wednesday evening, October 12, 2022 at 7:00 p.m. to hear all persons interested in a petition by Symes Development & Permitting LLC with an address of 50 Dodge Street, Beverly MA 01915, for Definite Subdivision Approval, pursuant to the Town of Stoneham Zoning By-laws and the Massachusetts Subdivision Laws for the property located at 62 High Street, Stoneham, Massachusetts, containing 170,891 sq. ft. (3.92 acres) of land. A Plan by Williams Sparages, entitled “Locus Plan Berrywood Estates Stoneham, MA,” dated August 22, 2022, may be seen daily except Friday afternoon in the Town Clerk’s office.”

After reading the notice Mr. K. Dolan explained the procedure for the public hearing and invited Attorney Charles Houghton to speak on behalf of the petitioner.

Attorney Houghton begins by explaining that his client, Symes Development & Permitting, was one of eight bidding on the property at 62 High Street. They are proposing a thirteen lot subdivision. Every lot will meet the frontage and area requirements for the Town. Mr. Houghton introduces Landers Symes and Jeff Rhuda from Symes Development & Permitting as being in attendance at the meeting along with Rich Williams from Williams & Sparages. Mr. Houghton speaks for the public’s benefit and explains that they are going to give an over view tonight but that this process is governed by MGL Chapter 41 §81 with which they will comply. Mr. Houghton then turns the floor over to Rich Williams the engineer that will walk the Board through the plans.

Mr. Williams pointed out 62 High Street, the property for the proposed subdivision, which contains approximately four acres of land along with the abutting streets of Broadway, Bear Hill Road and Nixon Lane. He explained that the current property is mostly wooded with a single family structure and garage existing. The property slopes from the Broadway side to Bear Hill. From south to north. The grade difference is about twenty feet across the property. There's about a seven or eight foot drop from High Street to the back of the property that abuts the Nixon Lane side. Mr. K. Dolan clarified that it's about twenty feet north to south and about eight feet east to west. Mr. Williams agrees. Mr. Williams continued to say that they did tests holes on the property at every proposed structure and various spots along the road and they didn't hit any ledge. They were down fairly deep on many of those holes. They hope the outcome of the project does not include any blasting. He went on to say that they are proposing thirteen single family homes along a forty foot right of way which is 577 feet from High Street to the center of the cul de sac. The width of the travel way curb to curb is twenty-six feet with a five foot side walk on each side.

Mr. Williams moved on to the utility part of the plan, mentioning the proposed 8" water line for the full length of the road. They have proposed two hydrants but have had comments from Fire and DPW to add another hydrant which they don't have a problem with doing so. They hadn't put a third initially because there was an existing hydrant nearby. The lots will be served by sewer. They have a sewer line that slopes from the cul de sac to High Street where it discharges on the northerly side of the property. The subdivision will be serviced by underground electric and cable. There is gas on High Street but they aren't sure if they will or can tie into that. Mr. K. Dolan asked what they would do if they can't tie into the gas line, would it be oil or propane? Mr. Williams responded that it would be propane and electric if there's no gas.

Mr. Williams continues to talk about the drainage system that they have designed. It combined with the runoff from this property off the back of the lots discharging onto Bear Hill Rd. In order to not affect the houses on Bear Hill, they've got an extensive infiltration system designed for the lots and roadway. Each lot is designed to take the runoff from the roof and discharge into an infiltration system. The systems are designed to take a 100 year storm. There are proposed systems of infiltration in the road and two surface ponds that are on lot eight. The result of the lots on Bear Hill after evaluating a 2, 10, 25 and 100 year storm is that all of the properties see a reduction in stormwater runoff and volume. They believe there will be no negative affect on any of the properties. They have submitted a detailed stormwater report that provides detailed calculations. They feel good about the abutters on Bear Hill.

Mr. K. Dolan asked for clarification on the infiltration system being in the road. Mr. Williams stated that right now there is one at the beginning of the road and two in the circle. He continued to say there was a comment from DPW that they'd like them to look at moving them off of the road and they are looking to do that. They still need to meet with DPW and the Stormwater Board.

Mr. Williams continued on with the grading of the site. On the high side on a majority of the back of the lots they have a small retaining wall that's two to three feet high. They also have a retaining wall that is two to three feet high on the low side. That allows them to have a way to make up some grade. The small walls allow them to do that. There will be garages on the side on the southerly side and garages on the front on the other side.

Mr. Williams asked if there were any questions. Ms. Wengen asked if he would go over minimizing the grade. While pointing to spots on the plans, he explained that because of the way the property slopes on the southerly part of the property they needed to put the two-three foot retaining walls and on the northerly side they have walls with a walk out to make up the grade. Ms. Wengen asked for further clarification of the walk out. He explained that in these homes you'd enter on the first floor but in the back you'd be at basement grade so you would walk out the basement. To further explain the grade changes he chose one of the lots and explained that in the front the elevation is 186 and in the back its elevation 180 then he shows that the house on the opposite side is 186 in the front and the back is 188.

Ms. Wengen states that it isn't level and Mr. Williams responded that that is correct. It is not level. It couldn't be because of the twenty feet now. This is how they are making that up. Ms. Wengen mentioned that when they do their site visit she can take a look.

Ms. Wengen commented on the tree diagram provided. She asked if they could have the slow drip water bags on the tree planting. Mr. Williams explained that they don't normally do that for the new plantings but they can add it to the plan. She adds that on page 6 where it talks about the water trench there is a reference to Melrose that she'd like to see changed to Stoneham.

Ms. Wengen asked when they could talk about the name of the street. Jeff Rhuda from Symes asked her what name she'd like. Ms. Wengen stated that the family had been on that site for 100+ years and it should be Isola Lane, Isola Street or Isola Way. Something to represent the family. Mr. Rhuda and Landers Symes agreed.

Mr. T. Dolan asked about the south side drainage, it looks like there is going to be a retaining pond. Mr. Williams responded that there are two surface ponds. Mr. T. Dolan questions how that will affect drainage. Mr. Williams answered that they are infiltration ponds and they receive piped drainage. He adds that the water that runs off from the roof is clean, but the stuff from the road is pretreated. He didn't mention it before but all of this storm water has to meet the Town of Stoneham's regulations and the Massachusetts storm water management policy which they did.

Mr. Moynihan asked the Board if they would be doing a site visit. Mr. K. Dolan responded that they would probably arrange the date and time of the site visit before leaving that evening.

Seeing no other questions by the Board members, Mr. K. Dolan asked if the Director of Planning Erin Wortman or DPW Director Brett Gonsalves had any questions or comments. Mr. Gonsalves explained to the Board that what he typically likes to do when a subdivision is introduced is provide a memo with comments. He usually sits down with the applicant's engineer one on one to work through everything to try to work through everything and come up with a finalized design. He also mentioned that they will appear before the stormwater board. Ms. Wortman added that once engineering is happy and stormwater is addressed, the three waivers being requested have to do with engineering, so when engineering is happy, you are building it based on Stoneham's subdivision rules and regulations. Mr. Moynihan asked if Mr. Gonsalves had submitted a memo. The Board had Mr. Gonsalves's comments with the other department comments that had been received. Mr. K. Dolan then asked Attorney Houghton to annunciate the waivers they are looking for. Mr. Houghton tells the Board that they can be found at the bottom of sheet 2 of the plans submitted. He continued to read the three. The first is the looping of the water lines. They would like to allow no looping. Mr. K. Dolan mentioned that the purpose of looping would be for water flow. Mr. Houghton agreed and stated that its so water doesn't become stagnant at the end of a dead line. The second asked that a 10' wide drainage easement be allowed instead of 20'. Mr. K. Dolan asked if they'd like to go back to what used to be in place. The third waiver requested is for the minimum cover of 2-3 feet required. Mr. Houghton said its engineering related and above his understanding.

At this point Mr. K. Dolan explains to the members of the public that as a Board their jurisdiction is MGL Chapter 41 §81 and they are charged with reviewing these plans and making sure that they are consistent with that and our own zoning bylaws and if they are we can't just say that we don't want them to build there. We cannot deny. As you've heard earlier, the Stormwater Board will meet and probably be more significant with this project. After hearing from the Board and the petitioner, the Vice Chair then opened the meeting up to the public. He explained that he'd allow public comment until around 8PM that night at which time they would adjourn for the evening after setting a date and time to visit the site at which the Planning Board get a sense of the property that they are dealing with. Before the first member of the

public came to the podium, Mr. T. Dolan asked a quick question asking if they had looked at looping the water in through Nixon Lane. Mr. Gonsalves responded that it was a comment that he made and he will address that when he sits down with the applicant's engineer.

Gayle Faller, 4 Kenneth Terrace had some questions. She wanted to know if the two ponds being proposed for lot 8 were detention or retention ponds. She asked after the property is developed and the lots are sold, who would maintain the pond areas. She talked about the four acres having many trees and asked if any of those trees would stay around the perimeter.

Mr. Rhuda from Symes Development responded that unfortunately very few of the trees would be left because of the grading. He responded that the ponds are infiltration ponds and asked Rich Williams to clarify. Mr. Williams stated that they are retention and infiltration and after a big storm the water would drain within 72 hours. Mr. Rhuda added that they drain pretty quickly, you don't have standing water. Mr. K. Dolan stated that the third question was about maintenance and he believed there would be a homeowner's association that will assess the lot owners a certain sum of money per year for someone to come out and maintain it and clean it out, just as they've done in other subdivisions. Mr. Houghton added that Wincrest subdivision would be a good example. Ms. Faller stated that she's still confused about the retention ponds. When she looked at the plan she could see a pipe going from one pond to the other. She asked for an explanation. Mr. Williams stated that they are a combination of infiltration and retention. When he says retentions he means that its purpose is to slow down the water leaving the site so that people downstream don't experience a quick rush of water. It's contained on the site.

Mr. K. Dolan asked Mr. Houghton if there is a similar system in place, right up the street, on Coventry Lane. Mr. Houghton stated that yes it is a retention pond, but it's not a pond in sense of going fishing in it. Mr. K. Dolan believed that would give the neighbors a sense of what is being discussed. Mr. Houghton adds that it's not a pond to hold water. Mr. T. Dolan added that it wouldn't look like a pond at a golf course. Ms. Faller believed she understood, but Mr. Rhuda clarified even further. It's not a detention pond when water slowly drains through. It's like a bath tub with the plug pulled. That's a retention pond. Detention would be when the bath tub is plugged and water is kept in the tub. Mr. K. Dolan told them that if they go up to Coventry Lane a walk down that street, they can see an example on the left. It would give you a good sense of what.

Fred Pretfer, 30 Broadway asked about the retaining wall on the south side and whether it would stop water or the land from moving in? Mr. Williams responded that it wouldn't change anything on the abutting properties on Broadway. It's intended to allow the grade to be dropped. Mr. Pretfer then asked what the projected cost of the houses being developed would be. Mr. K. Dolan responded that it is not relevant to the Planning Board but if he had to guess he'd say seven figures. Mr. Pretfer then mentioned where he formerly lived there was some building being done and it brought with it a lot of rats. He asked if there is a provision for dealing with that problem. Mr. K. Dolan responded that the Board of Health would have jurisdiction. Mr. Gonsalves stated that as part of construction control for the subdivision they'd have to address any rodent problem. Mr. Pretfer asked how long it typically takes to build something like this. Do you build all of the houses at the same time or a two at a time? He stated that he's curious to know about the noise. Mr. K. Dolan responded that their approval is generally a two year time period. Sometimes they come back for extensions, they don't want half built subdivisions, so they routinely grant them. Time is money so he believes that they want to build quicker rather than slower. Mr. Rhuda added that the road would be constructed in about a six to eight month period and paved, so all of that heavy construction would be done. The house construction is dependent on the market. Generally speaking for something that size, Mr. Rhuda stated would be about 18-24 months if the market cooperates. Mr. Pretfer then asked when the construction could occur. Mr. Rhuda responded that the Board would usually impose construction hours. Mr. Pretfer asked what those hours would be. Mr. K.

Dolan responded that with input from the Building Commissioner and Mr. Gonsalves, it would probably be 7am-5pm, not on Sundays. Mr. Prefter asked if they work on Saturdays and Mr. K. Dolan responded that they'd probably do a half day. It's something that the Board would discuss. Mr. Rhuda added the more hours they have the quicker they get out.

Michael Havican, 22 Bear Hill Road inquired about the drain easement and the plans showing six pipes heading behind his land. Then he mentioned that he saw it going into the retaining wall and stopping. Mr. Williams explained that the reason they have so many pipes is because they are trying to mimic what's in place. They are taking all the water from Broadway and the runoff through the subject property runs into his property at 22 Bear Hill Road. It's what happens now, so they are trying to mimic to the best of their ability what happens now. The flow is spread out through the pipes. It doesn't dead end. There is a perforated pipe on the other side of the wall. Mr. Williams continued to say that there is a reduction in the water going to his property than what happens now. The drain easement exists so they would have access if work needed to be done. The six pipes allow for the discharge to be spread out.

Mr. K. Dolan further explained that the obligation of the petitioner is not to make your problem worse. They are not making the flow any more than what it may be right now. The Stormwater Board will review the plans. It is a requirement for them to do that. All of this protects you as an abutter.

Mr. Havican asked if the plans were to scale and Mr. Williams responded that they are.

Angela Butler Franco, 14 Bear Hill Road begins by stating that it's a graded property so it's a little different than developing it if it's flat. The developer is proposing not to make their current rain environment worse. They are using words like "they hope" and "we'll try" and "we're proposing". She wants to know what happens if this gets approved, you build the properties and they are wrong and someone's property floods. What happens? Attorney Houghton responded that it would be a legal issue. He continued to say they can't design a system that sheds more water. She understands that but wanted to know what would happen if their efforts are wrong. Mr. K. Dolan stated that he cannot give legal advice but it seems obvious. If you think they did wrong, you have every right in a civil matter and sue somebody. Mr. K. Dolan continued to explain that was why they were here and why they rely on professionals. He told her that the Stormwater Board would look at this and make recommendations or request changes as necessary. Ms Butler Franco again asked if she could have an answer before the Board votes as to what happens with their properties should this design fail and someone's property floods more than in the current environment. Mr. Moynihan asked if she wanted to know who she would sue. She clarified by saying that she did not want to know if she should sue but if it would be her responsibility or somebody else's if her property floods. Mr. Rhuda responded that Symes Development has liability insurance if that were to be the case. He added that Symes has built 1500 homes, tens of subdivisions and never once have they had that issue. Mr. Williams concurred that it was the same for his company. They have also been in business a long time without that issue arising. In fact, he continued to tell Ms. Butler Franco that her property had the biggest benefit. There is very little watershed going to her property.

Mr. K. Dolan acknowledged resident Pat Nuzzo, 34 Broadway. Mr. Nuzzo asked what the grade is from High Street to the back of the property. He added that from his property it looks like the back of the property is well below High Street. Mr. Williams responded that it is well below, around eight to ten feet. Mr. Nuzzo then asked if the properties on the Broadway side were walk outs with a higher grade in the front or the back. Mr. Williams responded that the grade is higher in the front. Mr. Nuzzo then asked if the drainage would happen at the back and wanted to know how they would get the water out from the back. He thought it looked like everything drained onto High Street. Mr. Williams responded that it drains across with a similar drainage pattern as today. Mr. Nuzzo said that today we have earth and trees,

so the water dispersion is much different today given the landscape versus when you have all of these properties. You are replacing earth with all of these structures. Mr. Williams said that every subdivision deals with this. He added that with this development that is why they have a lot of infiltration areas proposed, so that all of the roof water ends up in the ground, all of the runoff in the roadway ends up in the ground and it mitigates the effect of developing the property. Their job is not to have a negative effect on the downstream abutters. They will have less water because they have been able to put so much into the ground. Mr. Nuzzo then asked about the waiver for the drainage over the pipe. Mr. Williams explained that is just a cover over the pipe and the particular material that covers it. Brett Gonsalves explained that it is a design standard and they will be seeking a waiver to go to a different depth than is required.

Mr. K. Dolan added to Mr. Nuzzo's point that if we fast forward and the roadway is built and the trees are largely cut, the water flow should increase significantly as the trees will not be sucking up so much of the water. Mr. K. Dolan continued to say that it will increase the flow, but Mr. Williams had said that their design accounts for that and will limit the increased runoff that will occur as a result. Mr. Williams agreed with Mr. Dolan's explanation.

At this time, Mr. K. Dolan stated that he'd take one more question and then adjourn this public hearing for the evening. With two people having their hands raised he will allow for both to speak briefly. Tricia Jenkins, 30 Broadway, asked how big the houses would be and she would also like to know what TF, GF and CF stand for on the plans. Mr. Williams responded that TF is top of foundation, GF is garage floor and CF is cellar floor. Jeff Rhuda responded that he homes would be roughly 2500-3000 square feet. Ms. Jenkins didn't believe that left a lot of yard space. She then asked about some of the homes having patios and some having decks. Mr. Williams stated that to be the case. She asked about fencing and Mr. Rhuda responded that there was no fencing planned at this time. She asked if it would be a possibility at some point. Mr. Rhuda said they may discuss it with certain individuals for screening purposes. Ms. Jenkins then asked about an affordable component. Mr. K. Dolan responded that the Town has a bylaw which might be modified at the upcoming Special Town Meeting. He continued to say as the bylaw stands right now there would be a requirement that two of the houses be affordable. Ms. Jenkins asked what the modifications to the bylaw might be. The Director of Planning, Erin Wortman, responded by saying that as it stands they would have to build the two affordable houses. The proposed change would allow for a separate process, separate from the subdivision review process, for an applicant to seek a Special Permit from the Planning Board for a waiver to build those units in lieu of a fee per unit. It would be a separate Special Permit process and the Planning Board would have discretion. The developer could get this thirteen lot subdivision approved and choose to build the two affordable units or if the change gets adopted at Town Meeting and approved by the Attorney General, they could then seek the Special Permit to change from the two affordable to a fee in lieu of building both units or one unit and this Board would have full discretion over whether to grant it.

Charlie Lynch, 18 Bear Hill Road, asked about the retention wall and the eight foot difference in elevation. Would you plan to keep eight feet or will it adjust to thirteen? Mr. Williams said that it would stay the same along.

Gary Cooper, 10 Bear Hill Road, commented about the emotional impact of the abutters. The drainage easement on the Bear Hill side, where is the pipe on the Bear Hill side? Mr. Williams talked about pipes being up gradient of the wall. There's a pipe on the down gradient side which he further explained to be a perforated pipe along the base of the wall that is covered with stone. That's what is on the Bear Hill side of the wall. Mr. Cooper asked if it was set back from the line and Mr. Williams responded that it was. Mr. Cooper asked how much it would be set back. Mr. Williams responded that it would be a foot or two. Mr. Cooper stated that it is currently open land, but the Isola property has been unlive in for a while now

and the barn is in a complete state of disrepair. He'd like assurances about pest control. When the structures are demolished. He also asked about trees. Mr. Cooper acknowledged that Jeff Rhuda had been very open to this point allowing a dialogue back and forth by email. Mr. Cooper wanted to know about the trees on the border of the property. Mr. Rhuda stated that if it's on their side it's on their side. Mr. Cooper asked about trees split down the middle. What happens then? Mr. Cooper has a tree in the back that looks like it's on the line. Mr. Rhuda explained that they will be removing earth. If you take a bulldozer over the roots, the tree won't survive. Mr. Cooper stated that so far the trend has been good, but he hoped that the communication with the abutters would continue during the stages of the project. Mr. Rhuda agreed that it would. Mr. Cooper used the example of the tests pits being dug and the neighbors not knowing it was happening as what they'd like to avoid.

Mr. K. Dolan asked for a motion to continue the public hearing until the next Planning Board meeting on November 16, 2022 at 7PM. Mr. K. Dolan also asked the Board if they could do a site visit on October 22, 2022 at 9AM. Mr. Moynihan made the motion to continue until November 16, 2022 at 7PM which was seconded by Mr. T. Dolan. All members present voted in favor (4-0). Mr. K. Dolan took a five minute recess at 8:08 PM.

Chair Frank Vallarelli returned and brought the meeting back to order at 8:13 PM. He moved on to the first public hearing for the Special Town Meeting articles. He invited the Director of Planning, Erin Wortman, present the North Main Mixed Use Residential Overlay article that she had submitted for the Special Town Meeting. She began by explaining that this article was a product of the Bi-Board meeting that the Planning Board had with the Select Board on August 11th. She reminded the Planning Board that they had met three times as a group on this particular article. The language this evening is a direct result of the last meeting with the Select Board. She made one change after the August 11th meeting because the Department of Housing & Community Development (DHCD) sent an email with guidance on August 12th. DHCH is overseeing the impact of 40A §3A. They held a webinar at the beginning of September and Ms. Wortman sent the Board a memo detailing the change on September 14th. The final guidance created some necessary changes. The one big change was that multifamily housing had to be added back with Site Plan review. If it was mixed use residential only, she believes that the fear would be that cities and towns would make the housing as an accessory to the use instead of as a true mixed use. DHCD also changed the affordability component, but because we already have an inclusionary zoning bylaw, we are in compliance. She continued to explain that the overlay consists of the parcels that abut Main Street on the east side from Elm Street to Collincote Street. There are a couple of parcels in the Highway Business District that are on Central Street that were not included. This overlay is about seven acres and it allows for mixed use residential and multifamily housing by Site Plan review. This language is compliant with 40A §3A. Initially she had included all of Highway Business in the overlay which had been shrunk to just the parcels between Elm Street and Collincote Street.

Mr. K. Dolan stated that 40A §3A was 50 acres. Now we are required to have 28 acres. So we comply there. He added that we don't know if we comply with the number of units, but it's closer to 1,000 now that we need 10% instead of 20%. Ms. Wortman explained that they created a circuit breaker. DHCD in administering 40A §3A acknowledged that not all land is created equal, so for a place like Stoneham, they looked at our developable land. She continued to say that our acreage got lowered from 50 to 28 because 1/3 of our land is protected. The circuit breaker then capped our unit capacity at 1.5% of all households. Our unit capacity lowered to 1086 units.

Mr. K. Dolan stated that this should bring us largely into compliance with 40A §3A. Ms. Wortman wanted to hold off on saying that until the unit capacity tool is released and she is able to calculate the unit capacity piece. Mr. K. Dolan added that the compliance date was pushed out until the end of 2024.

Ms. Wortman stated that if we comply before January of 2023 then we wouldn't have to produce a compliance action plan which would save her a lot of work.

Mr. Moynihan added that if this doesn't bring us into compliance we would be close. Ms. Wortman agreed.

At this time Mr. Vallarelli opened it up to the public. Anthony Wilson, 181 Central Street commented that he'd like to see us preserve retail and have a walkable community. This change removes that. Mr. K. Dolan added that it is in a very limited area. Mr. Wilson brought up the commercial tax base. We are losing it around town. You don't want to drive down Main Street and just see apartments. He said you want to see shops with people going in and out. This is a change to a neighborhood with families. He said there are no setbacks in this bylaw and the way he sees it, there could be an apartment building built five feet from someone's house. Ms. Wortman added that there are setback requirements in Highway Business. Mr. Wilson responded that they are only five feet. She explained that with five feet on either side there would be a total of at least ten feet in separation.

Mr. Wilson also argued that the language isn't clear about the parcels abutting Main Street. He believed it looked to be all parcels in Highway Business from Elm Street to Collincote which would include some parcels on Central Street. Mr. K. Dolan stated that it's written to include just the properties that directly abut Main Street on the east side. He questions Mr. Wilson as to how that would include Central Street parcels that do not touch Main Street.

Ms. Wortman added that she did have Building Commissioner Cheryl Noble look at the language and indicate on the zoning map what parcels she believed would be included in the overlay. She did and none of the Central Street parcels were included. Mr. Wilson would like to see a map at Town Meeting for clarity purposes.

Mr. Wilson then asked about egress. He would not want them to exit out onto Central Street. He'd like that restricted. Mr. K. Dolan responded that that would be a Site Plan issue. They could impose that condition. Mr. Wilson was hoping to have it spelled out in the bylaw. Ms. Wortman did not think it was appropriate for zoning to address site specific egress.

Mr. Wilson would also love to see this article narrowed to the China Moon property only. The bigger issue could be addressed at a later time. Mr. Wilson doesn't believe that this article represents what either the Select Board or the Planning Board was thinking when they discussed it in August. Mr. K. Dolan disagreed. He believed that it accurately reflected what the Bi-Board talked about. Mr. Dolan continued to say that we started at 76 acres and brought it down, there was a lot of back and forth discussion with some compromise and it's exactly what the boards discussed in August. Ms. Wortman agreed less the multifamily aspect that she had to add back in after the guidance was released. Mr. K. Dolan had no problem with that as the whole purpose of 40A §3A is to add housing. Mr. Vallarelli added that they had talked about scaling it down to just China Moon but then thought it would be better to handle the rest of this all at once. Mr. K. Dolan added that just China Moon could be looked at as spot zoning. Mr. Wilson understands but raises his concerns of what this will do to the neighborhood, these buildings with a number of units having egress onto Central Street. Development five feet from property lines. Mr. Vallarelli doesn't see that happening with so many private properties. Mr. Wilson would like support in protecting a neighborhood.

Raymie Parker, 111 Franklin Street, member of the Select Board, asked for clarification about retail space on Central Street that abuts the Highway Business District. She wants to know if we still need all of these parcels to comply. Ms. Wortman doesn't know but she thinks so. We only need 28 acres and Fallon Road

has 34 acres but can it yield over 1,000 units. She doesn't necessary believe so. It will be tight. Ms. Wortman understands the concern but we came to a compromise that does its best to protect the Central Street group by not having the non-Main Street abutting properties impacted. She also adds that from the preliminary plans talked about, China Moon does not plan on having egress onto Central Street. She did, however, point out that Central Street is a public road. She continued to say that we knew China Moon was going to be redeveloped as residential. We saw an opportunity to kill two birds with one stone. It's in harmony with the area. Mr. K. Dolan stated that her point was well made as was Mr. Wilson's and added that there has never been a perfect bylaw.

In response to some of Mr. Wilson's comments, Attorney Charles Houghton, 15 Kimball Drive stated that there is no way that they will be going in or out onto Central Street when China Moon is redeveloped. He then mentioned that in zoning you give words their ordinary and normal meaning. The words "directly abut" don't come out any other way. With this language you have to be a parcel on Main Street. Mr. Houghton explained that they tried to put retail with residential above, but it won't work on that site so they had to separate it out. Mr. K. Dolan commented that to that point, this will not be solely residential. Mr. Houghton agreed, there would be a commercial space beside the residential units. Mr. Houghton added that its Main Street, it is not a neighborhood. You cannot do China Moon alone. It's spot zoning. China Moon is under three acres.

Ellen McBride, 30 Butler Avenue asked for clarification on the 40A §3A guidance that came out telling us we needed 28 acres. She asked if we met that why we needed to do this. Ms. Wortman explained that it's a two prong process. You need to meet that 28 acres while also having the required unit capacity piece. She believes the legislation is supposed to stop communities from having the set acreage and then saying, "Oh by the way you can only build one unit per three acres". Ms. McBride asked where we are if the unit capacity is 1086 units. Ms. McBride asked if 72 units at China Moon would put us over what we need. Ms. Wortman explained that unit capacity is not built units, its potential built units. She explained that it doesn't matter if China Moon put one unit there. It's the acreage and how many units that it can yield. Ms. McBride asked what the sense was if we didn't have to meet it. Ms. Wortman explained that we have to meet it. She continued to say that we do not have to build it but we have to have the ability to build it. Mr. K. Dolan asked if it would be about fifteen units an acre. Ms. Wortman believed it to be more than fifteen units an acre. Mr. Dolan used the three acres for China Moon as an example and asked if we would get credit for the whole 72 units they will build. Ms. Wortman explained that we would get credit for three acres and however they calculate how many units can go on those three acres. She stated that the 72 doesn't matter. Ms. McBride asked if we didn't need 72 to be built, could we ask if they could build less? She hates to have us change this, effect a neighborhood all to solve the problems of a builder which is what she feels that we are doing. Ms. Wortman explained that this bylaw allows for properties included in this overlay district to apply for Site Plan review approval. During Site Plan approval the applicant will have to mitigate safety, traffic and site conditions for as many units as they are putting forward. Ms. McBride asked if it could be mixed use with 60 units. Ms. Wortman stated that they could say it's not buildable and turn around and say they are going to put 500 units of affordable housing there instead. They would have the right to do that without approval. Ms. McBride said the affordable unit threat no longer works on her. Ms. Wortman didn't mean it as a threat. She was pointing out that to say a neighborhood can change because of a multifamily development that can happen tomorrow through a 40B application. Mr. K. Dolan understands Ms. McBride's point, if the Select Board are going to allow 72 units, he'd like to see credit for all 72 units. Ms. Wortman said that your acreage equals what you get credit for. She further explained that if this article passes then you would get credit for all of the 7.6 acres included in the overlay. That number would be put into the algorithm to spit out what the unit capacity is. Mr. K. Dolan surmised that it would be about 110 units. Ms. Wortman responded maybe but we don't know yet without the tool. Ms. McBride wants to know why we are rushing this if we don't know. Ms. Wortman stated that even if we put this on hold, Attorney Houghton would have submitted a citizen's

petition to create a Special Permit process for his client to build the units at China Moon. Mr. Houghton agreed that he would have submitted an article to rezone through a Special Permit process forgetting 40A §3A. Mr. Vallarelli added that in that case we wouldn't get any credit for it. Mr. Houghton stated that his client paid 9.25 million and were the second highest bidder to someone who wanted to build a 40B. His client now has to make this project work financially, so a reduction in units wouldn't happen. Mr. Houghton continued to say that 72 units is not a lot of units on Main Street.

Mr. Vallarelli moves the discussion back to the Board for any further comment or questions. Seeing none, Mr. K. Dolan makes a motion to recommend favorable action at Town Meeting. He reiterates that the article isn't perfect, nothing is. We should leave it up to the Town Meeting to decide. Ms. Wengen asked if the vote was supermajority. Mr. K. Dolan responded that it is just a simple majority. Mr. Moynihan seconded the motion. It was 4-1 in favor with Ms. Wengen voting against.

Mr. Vallarelli moves on to article 2 which is the Central Business District off-street parking requirement. He invited Ms. Wortman to speak to her article. Ms. Wortman explains that parking is addressed in multiple sections of the zoning bylaws. This article would lower the parking thresholds for housing to one space per unit in the Central Business District and for all multifamily in town it creates consistency and drops it to 1.7 spaces per unit for all multifamily housing. Mr. Vallarelli stated that we are currently at 2.1. Ms. Wortman stated that is depending because in the last ten years it's been 1.7. She references the most recent overlays created. Fallon Road, Maple Street, Senior Housing Overlay District and the old hospital site are all 1.7. If your district hasn't been touched in the last ten years, then it is 2.1.

Mr. Moynihan asked how 4.6.3.3 section 1 reconciled with 6.3.3. Ms. Wortman explained that is where you see the difference of one space per unit in Central Business District with all of the other multifamily in Town being 1.7. She continued to say that in 6.3.2.1 calls out the Central Business District being different than the chart. She points out that the article is laid out funny by showing as stacked on paper, when properly formatted it will be shown in columns that are more easily understood. Mr. Moynihan then stated that 6.3.3 is everything but the Central Business District and Ms. Wortman agreed.

Seeing no further comment from the Board and no comment from the public Mr. Vallarelli entertained a motion to close the public hearing. Mr. Moynihan moved to close the public hearing which was seconded by Mr. T. Dolan. All members voted in favor.

Mr. Moynihan made a motion to support favorable recommendation at Town Meeting which was seconded by Ms. Wengen. All members voted in favor (5-0).

Mr. Vallarelli moved on to the public hearing for Article 3 which will amend the Inclusionary Zoning bylaw. He then invited Ms. Wortman to once again speak. Ms. Wortman explained the changes that she was making to the existing bylaw. This article would allow flexibility for an applicant with an approved project to seek a Special Permit from the Planning Board to pay a fee in lieu of building the required affordable units. It's a discretionary permit on a case by case basis. There is currently no flexibility.

Mr. Vallarelli mentioned that the Select Board recently appointed an Affordable Housing Trust Committee. He asked if they would determine what the fee would be. Ms. Wortman responded that the committee would take in the money but the fee calculation is actually outlined in section 6.12.11. It talks about market rate. This lends itself to market conditions. The Assessor's Office would verify figures for the assessment. Mr. Vallarelli asked if it was basically 35% of what the cost of that unit would be on the market. Ms. Wortman agreed but said it would be based on the last three fiscal years.

Mr. K. Dolan mentioned that this wouldn't just be for single family home subdivisions. Ms. Wortman stated that it would be the median of single family homes or condominiums sale price.

Ms. Wortman continued to say that everything is spelled out with the order of things and the timeline involved. The Planning Board can modify the fee schedule for projects covered by a single occupancy permit. It really would only happen in subdivisions.

Mr. K. Dolan talked about section 6.12.6 (4) as detailing the payment. Ms. Wortman agreed.

Ms. Wengen asked what would happen if the Assessor said that the information provided was all wrong. How does that get resolved? Ms. Wortman responded that the Assessor would show their data. Without saying that the Assessor would trump the petitioner, Ms. Wortman stated that the Assessor's data is the official data.

Mr. K. Dolan stated that it is a very detailed bylaw. Ms. Wortman did a good job. He can't wait to see her explain it to Town Meeting after the dry run tonight. Ms. Wortman stated that the outcome may always be the same regardless of this change to the bylaw. The petitioner may never use it but they would now have some flexibility of that opportunity makes sense.

Ms. Wengen asked if this would go through the Attorney General and if Ms. Wortman thought it would pass. She responded yes to both questions.

Mr. Vallarelli opened it up to the public for comment. Ellen McBride, 30 Butler Ave asked what prompted this change to the bylaw.

Ms. Wortman stated that when they were drafting the original inclusionary bylaw, she had asked the Planning Board about subdivisions. At the time the Board felt that there were no areas in town left to develop an 8+ unit subdivision. Then High Street came up. She continued to explain that the intent and spirit of inclusionary housing is to be inclusive and to integrate housing. It doesn't really yield those results with the single family subdivision because you can have a \$1.8 million house and the affordable unit sticks out like a sore thumb if the builder builds it as an affordable unit and they will. Ms. McBride just wants to know why this bylaw change was prompted in Stoneham. Ms. Wortman doesn't believe it was a direct result of High Street but it had come up. Mr. KJ. Dolan stated that they never really gave subdivisions a thought. They just wanted to get an inclusionary bylaw on the books last spring when they knew Maple Street was going to be developed. Then once it was out there we decided to then give the Board more flexibility, allow a case by case basis. Ms. McBride asked if someone requested this Special Permit to exclude the affordable. Ms. Wortman interrupted and stated that it wouldn't exclude. It would be a Special Permit to allow for a fee in lieu of building some or all of the affordable units required. Ms. McBride asked if the vote of the Planning Board would be a supermajority. Ms. Wortman stated that it would be a supermajority. Using High Street as an example, Ms. McBride asked what would happen if Mr. Vallarelli is recusing himself and they asked for a Special Permit and the vote was 3-1. They'd be denied but were at a disadvantage with only four members voting. Ms. McBride continued to say that we fought for years to get inclusionary zoning, but now we are going to add this and basically say we want affordable units except when we are talking about single family homes and except when we are talking about condos. Ms. Wortman responded that anyone who has a project with eight or more units is subject to the inclusionary bylaw. The adoption of this amendment would just allow for them to apply for a Special Permit to pay a fee in lieu of building the affordable units. Ms. McBride stated that on the China Moon site when they build 72 units they would just pay a fee instead of building affordable units. Ms. Wortman stated that they could apply for the Special Permit. Ms. McBride understood and continued to say that if they got approved then they would just pay a fee. She asked if we are hindering ourselves with the number of units we are supposed to be meeting. Mr. K. Dolan responded with what he has seen play out in other towns is a combination. He gave an example that if someone were to be required to build

fifteen affordable units, we might say, alright you build thirteen and you can pay a fee in lieu of to the Housing Trust for the other two. He said ultimately we'd like to build up the housing trust and that's one of the only ways you'll do it. So we'd say build thirteen and pay \$500,000, or whatever the number is, into the housing trust.

Ms. McBride stated that they could all ask to pay a fee in lieu of completely. Mr. K. Dolan said it would probably never happen but that yes they could ask to pay an entire fee in lieu of building the units. Ms. McBride felt that we were giving up the ability to allow for people such as herself to buy a single family home in Stoneham. Mr. K. Dolan stated that this bylaw amendment is not saying that. He added that the land court could say our existing bylaw is completely illegal [as it is currently being challenged in court].

Ms. McBride mentioned that since we are being sued, maybe we should wait to find out what happens in court before making this change. Ms. McBride then asked at what point a developer would disclose what they plan on doing. Ms. Wortman responded that it is a separate process. They first get approval for their project with the expectation that they build the required affordable units. After their approval and the appeal period it over, they could seek a waiver. It is discretionary in nature. Ms. McBride asked again why we don't wait to make this change after the court case for the bylaw is settled. Ms. Wortman added that the other important part of the proposed amendment, separate from the fee in lieu of, is that it removes the Special Permit requirement from this bylaw. Ms. Wortman used 95 Maple Street as an example. The bylaw currently states that they get their approvals for 270 units and then they have to come back to the Planning Board for a Special Permit approval to do what is required under our bylaw. So instead we are striking that Special Permit requirement and saying the bylaw is the bylaw. If you do eight or more units you are required to comply with the affordable housing part of the bylaw. Ms. Wortman did add a line that building the affordable units is the preference. Ms. Wortman did agree that the Planning Board should make informed decisions regarding the fee in lieu of. The Town should furnish the existing percentage of affordable units for the Town to the Planning Board before they make their decision.

Ms. McBride added if we could include language that this waiver is a supermajority vote by the Planning Board. Ms. Wortman stated that she could get an opinion from Town Counsel on the voting threshold required.

Mr. Moynihan asked if the Affordable Housing Trust fund is already in existence. Ms. Wortman responded that it is. It was adopted at the Annual Town Meeting this past May and it is its own bylaw. There is a seven member board of trustees appointed by the Select Board. They will meet at least quarterly to talk about their charge. Mr. Moynihan asked about their charge since they will manage this fee in lieu of payment. Ms. Wortman stated that their authority is spelled out in detail in the bylaw. Mr. Moynihan then asked what it was they could do if they had say \$10 million sitting in the fund. Ms. Wortman stated that they could build units or they could buy units. Mr. Moynihan asked Ms. McBride if it addressed some of her concerns. Ms. McBride thinks that it adds an extra step. Ms. McBride doesn't believe the Town of Stoneham would build affordable units. Ms. Wortman and Mr. K. Dolan both respond that they might. Mr. K. Dolan asked about using it for down payment assistance. Ms. Wortman stated that you could, it's up to the trustees. She added that you could also buy out expiring units which could be important to maintain the affordable units in perpetuity. Mr. Moynihan added that the money is not being wasted. It's going to a good purpose. It's addressing affordable housing.

Raymie Parker, 111 Franklin Street, member of the Select Board, asked for clarification. She asked if because this is a change and we are in court right now fighting about the current bylaw, what happens if the court challenge changes it or throws it out. She would like to know how that would affect the High Street project. Ms. Wortman stated that the subdivision is the subdivision. She added that the big thing with the court case is that we are requiring a Special Permit and if we adopt the changes on Monday night

at the Town Meeting it becomes a moot point. Ms. Wortman would rather fix that issue than have the court fix that issue. Ms. Parker then asked about the thirteen home subdivision proposed on High Street. Ms. Wortman explained that if the change goes through, the developer still gets their definitive subdivision approval. They would then decide to build the required affordable units or instead apply for the Special Permit to pay the fee in lieu of building the two affordable homes. Ms. Parker stated there would be no grandfathering. Ms. Wortman stated that no. It would be like reverse grandfathering for them in a way. Ms. Parker stated that the consolation for the fee in lieu of is that it would be a percentage of the 1.7 million dollar home. Ms. Wortman clarified that it is 35% of the market rate for a comparable single family home sales over the past three years. Ms. Wengen asked if comparable was in terms of square footage. Ms. Wortman stated that it would mostly be the case.

Anthony Wilson, 181 Central St, mentioned that the language as he read it stated that it's 35% of the median single family home or condominium sale prices in the last three fiscal years. He's saying that it's not comparable but all. Ms. Wengen asked for clarification on what Mr. Wilson was saying. Mr. K. Dolan stated that he's saying that it's 35% of sales. Mr. Vallarelli added that it doesn't say comparable.

Seeing no other members of the public wishing to be heard, Mr. Vallarelli entertained a motion to close the public hearing. Mr. Moynihan made that motion which was seconded by Mr. K. Dolan. All members present voted in favor of closing the public hearing (5-0).

Mr. K. Dolan made a motion to support this article and to make favorable recommendation at Town Meeting which was seconded by Mr. Moynihan. All members present voted in favor (5-0).

Mr. Vallarelli introduced the next zoning article regarding the amendment to Residence B. Ms. Wortman is invited to speak on her article. She began by explaining that this article is easy as the Attorney General's Office told us that we should do this. Essentially Chapter 40A Section 3, usually known as the Dover Amendment, states that there shall not be any unreasonable regulation of farming, education, childcare or houses of worship. The change we adopted at the May Town Meeting was a Special Permit that noted educational use, the Attorney General asked us to remove the educational language. Attorney Houghton added that that was the change he brought to Town Meeting for the Boys & Girls Club so he threw in the educational aspect not realizing how the Attorney General would perceive it. Ms. Wortman added that it just means that an educational use can go there without requiring a Special Permit. Ms. Wengen asked if it impacts anyone and Ms. Wortman said that it would not. The Boys & Girls Club already got their Special Permit which the Attorney General then said that they didn't need.

Mr. K. Dolan made a motion to close the public hearing which was seconded by Mr. Moynihan. All members present voted in favor (5-0).

Mr. K. Dolan made a motion to support this article and to make favorable recommendation at Town Meeting which was seconded by Mr. T. Dolan. All members present voted in favor (5-0).

Mr. Vallarelli introduced the final zoning article of the evening which would rezone 72 Central Street to correct existing split zoning of the parcel. Attorney Houghton had presented this article to the Board at the last meeting and Mr. Vallarelli invited him to speak to the article. Mr. Houghton explained that the parcel is currently zoned as both Central Business District and Residence B. His client would like to rezone to Central Business district. He'd like to put a law office on the first floor with residential units above and requires this change in order to proceed. The Finance & Advisory Board supported the article because the tax revenue would increase substantially. Mr. K. Dolan stated that this would rezone to allow for him to apply for a Special Permit. Mr. Houghton added that they would most likely need variances as well.

Mr. K. Dolan comments that he doesn't have a problem with the article. The rezoning will allow for the rebuilding of an area. You need to give the property owners the incentive to do so. You will see an increase in tax revenue to the Town as well.

Ms. Wengen questioned the taxes. Mr. Houghton explained that right now it's a house that pays \$5,000. They are estimating that a 1500 square foot law office on the first floor would bring in about \$5,000 with the commercial tax rate. Each residential unit would be approximately \$5,000 each. It might be two-three units, not sure. Regardless it would be an increase.

Putting her preservationist hat on, Ms. Wengen then asked if the intention was to tear down the building. Mr. Houghton stated that yes. It's not worth saving. Ms. Wengen stated that's what they all say.

Mr. Vallarelli asked for other comments from the Board. Mr. Moynihan stated that he thought that we should have cleaned up all the area parcels that were split zoned. Mr. Vallarelli agreed. Ms. Wengen stated that there was a lot of angst from some of the neighbors about rezoning all of the parcels to Central Business District. Attorney Houghton agreed which is why he stuck with just his client's parcel for this article. Mr. Moynihan understood their concerns but continued to say that the zoning map doesn't make sense with several split parcels.

Anthony Wilson, 181 Central Street asked if residents had been notified that their neighborhood is changing. He also questioned changing one parcel here when earlier you were worried about spot zoning on Main Street. Ms. Wortman stated that it's moving the line on the zone. Mr. Houghton added that the zone already exists and part of the property is already in Central Business District. Mr. Wilson asked again if the neighbors were notified. Mr. Houghton stated that they aren't required to be notified. Mr. Moynihan added that they were at a previous meeting when it was discussed. Mr. Houghton agreed that that they had been notified for the Boys & Girls Club Teen Center Special Permit and this article had been on the Planning Board agenda that night. Mr. Moynihan continued to say that some of them voiced concerns and that is why this article is not correcting all of the split zoning on Central Street that currently exists on the zoning map. Mr. Vallarelli agreed that's why they suggested that Mr. Houghton pull this article back to the one parcel. Mr. Houghton added that if the zoning change is passed and his client moves forward, the neighbors would be notified of the public hearing for any variances need from the Board of Appeals and for the Special Permit hearing before the Planning Board.

Ms. Wengen asked if she could abstain from this because she has such mixed feelings. Mr. Vallarelli stated that she could. Mr. Vallarelli entertained a motion to close the public hearing which was made by Mr. Moynihan and seconded by Mr. K. Dolan. All members present voted in favor of closing the public hearing (5-0).

Mr. K. Dolan made a motion to support this article and to make favorable recommendation at Town Meeting which was seconded by Mr. Moynihan. Four members voted in favor. Ms. Wengen asked what the difference would be from opposing or abstaining. Mr. Dolan stated that if you oppose it means that you don't like it, if you abstain it means you don't want to vote. Ms. Wengen decided to vote no so it would be (4-1). Mr. Vallarelli clarified that Ms. Wengen was against the article and Mr. Vallarelli stated that we would go to Town Meeting of (4-1) in favor of supporting the article.

Ms. Wengen asked if the Board would like to go back to approval of minutes. Mr. Vallarelli had skipped over that earlier. The Board decided to hold off on approving minutes until the next meeting.

Mr. K. Dolan made a motion to adjourn which was seconded by Mr. T. Dolan. All members voted in favor.

The meeting adjourned at 9:38PM.

Documents and other exhibits used by the Planning Board during this meeting to be made part of the official record but not attached to these minutes:

A Plan by Williams & Sparages, entitled "Locus Plan Berrywood Estates Stoneham, MA," dated August 22, 2022.

Complete text of the zoning articles being presented at the October 2022 Special Town Meeting.

Respectfully submitted:

Maria Sagarino
Town Clerk