



TOWN OF
MONTAGUE
MASSACHUSETTS

TOWN HALL
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PLANNING BOARD
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DRAFT August 22, 2023 MEETING MINUTES
PLANNING BOARD

The Montague Planning Board met in-person in the Upstairs Room, located in Town Hall, 1 Avenue A, Turners Falls and via Zoom at **6:30 p.m.** on **Tuesday, August 22, 2023. Meeting was recorded.**

ROLL CALL:

Present: Elizabeth Irving, George Cooke, Ron Sicard (Chair), Sam Guerin, Bob Obear, Maureen Pollock, Town Planner. Steve Ellis, Town Administrator.

PUBLIC HEARING - ZONING AMENDMENT

- **Zoning Bylaw – Official Zoning Map – Parcel #21-0-152 & Parcel #21-0-004 Rezoning, Turnpike Road**
- To consider an amendment to the Montague Zoning Map petitioned by the Planning Board to redistrict a ±15.6 acre area of land identified as #21-0-152 (Turnpike Road) and a ±13.2 acre area of land identified as #21-0-004 (Turnpike Road) from Neighborhood Business (NB) Zoning District to General Business (GB) Zoning District.

Ron Sicard gives meeting instructions to the audience in attendance. The Chair received a letter in support of the zoning change from the EDIC.

Planner gives a presentation which reviews the chronology of events; The Town was approached by Steve Capshaw NE-XT (formally Valley Steele and Stamp) about a site to expand their business. They have a 45,000 square foot building in Greenfield and are looking for a new location. NE-XT would like to stay in Franklin County. The company has about 208 employees. As described by the Planner, there are very parcels available for manufacturing in Montague. She describes the parcels under consideration for re-zoning through a slide-desk presentation.

The presentation “Exploring Zoning Map Amendment, June 27, 2023” is entered into the notes.

The presentation gives an overview of (the lack of) manufacturing space in Montague including: Restrictions including wetlands, frontage requirement etc.; Infrastructure issues, grade and run off; Conversation and property owned by the Turners Falls Water District; Owners, like the Tech School, who are unlikely to sell.

The Planner is clear that a zoning change would allow a “permit pathway” to be reviewed by Special Permit from the Planning Board. Abutters and the general public would be notified of a Special Permit hearing. Conditions of approval can be placed on any proposal.

Richard Walsh comments that “Steve Capshaw does not own the company; it is owned by venture capitalists from New York.”

The Planner presents a zoning map of the parcels surrounding the one in question; the change would extend “General Business” zone from across Turnpike Road.

The Planner discusses possible uses for a parcel zoned Neighborhood Business (NB) vs. General Business (GB).

The EDIC reviewed the proposal and voted to recommend the zoning map change.

If approval by the Planning Board, the proposed zoning petition would be placed on the Town Meeting warrant.

PUBLIC INPUT

Todd Brunell asks for clarification on the chronology- one particular developer is seeking a place for business in Montague? Richard Kuklewicz responded “Yes” but there were discussions during the construction of the DPW that the parcel in question should be rezoned. Todd Brunell asks if they can give him a list of hazardous materials and their quantities that NE-XT uses. He asks if the Planning Board has received endorsements from the EDIC, DPW, police and cemetery commission.

The Planner explains that the zoning change was inspired by that business (NE-XT) but at this point the Town does not know who would submit a Special Permit. The question of possible hazardous materials and/or traffic impacts related to a particular use would be reviewed by the Planning Board as part of the Special Permit and Site Plan Review public hearing process.

Steve Ellis responds that his job is to present opportunity to the community. At this point in time the Town has no idea if this business (NE-XT) will want to re-locate in Montague or leverage us to gain concessions somewhere else. Traffic studies and other plans will be presented and reviewed by the Planning Board, if a business decides to proceed with a submission of Special Permit and Site Plan Review application. This lot has been identified for the stated use; fundamentally the inquiry from NE-XT was the impetus to act. The Town would not be doing its job if we did not present this opportunity to increase our tax base and gain jobs.

Todd Brunelle thinks that land should be considered for future Fire/Police/ DPW use.

Evelyn Walsh (Oakman State) is the secretary of Springdale Cemetery. The Cemetery Commission voted “No” (8-0) against the rezoning. They have created a group called “Rest in Peace.”

Ms. Walsh read comments against the rezoning proposal. Her comments and a petition with 88 signatures are presented to the Planning Board. *Comments with petition are entered into the minutes.*

L. Riley (Montague Street) says “this is the village of Turners Falls.” She voices concerns about the ability of first responders to do their job with possible increased traffic.

Bob Obear states that he appreciates everyone's passion, but comments that we are not at a Special Permit hearing; we are here to discuss a proposed zoning change. That business (NE-XT) is not at the table right now. Bob is a proponent of best and highest use and believes the Town needs to attract new businesses and increase the tax base.

Ariel Elan found the neighbor's arguments persuasive. She is concerned about growing the economic base but thinks that it is thoughtful and insightful to prevent the kind of wrangling that happens in Special Permit meetings; for residents to “put a line in the sand” before it comes to the point of a Special Permit. As a Town Meeting member, she is concerned that the investor is a hedge fund without legal liability to the community.

Mr. Johnson (Turnes Falls Road) mentions the size of the building mentioned. (2 Acres) and questions why the parcel in the Industrial Park is not being considered. Ron Sicard answers “No power, no water, no sewer.” Mr. Johnson asks if there is acreage in the Industrial Park, how did this come up? Has the Town exhausted all options?

...from the audience: What about Railroad Salvage or the Farren, or the Strathmore? The Planner responds that those sites do not have water and sewer; the bridge will be replaced in 2027. The Town has ongoing conversations with the State to demolish the Strathmore- estimated at 8 million (cost estimate provided in fall 2022).

The Planner discusses the shape of the lot in question. Due to the shape of the lot, a building would be located at

the rear portions of the lot where there is more sizable land to build, and the front leg of the parcel would be used as driveway.

Members of the audience ask about parcels in the Industrial Park and Town owned (13A) which is 5 acres with a steep bank.

Steve Ellis discusses the suitability of the Farren site and the Griswold (Railroad Salvage) site. The only other one feasible is back behind the transfer station but there is no suitable infrastructure. Considering all the options this particular company was looking for something ready to be developed. The process is inelegant, but Ellis feels that it is the Town's job to bring these opportunities forward. He thanks the people present at the meeting.

Jennifer Waryas asks why re-zone the cemetery. Ron Sicard answers that "it's a connecting element." The Planner adds that the rezoning of the cemetery would have zero impact; it is already pre-existing non-conforming use. Steve Ellis and Maureen Pollock asked Town Council if it was legal to remove the cemetery from the proposal. ("Yes") Elizabeth Erving clarifies that point.

Jeff Singleton (Montague Reporter) raises issues of case law, traditions, and spot zoning. Singleton asks if the Town received a legal opinion on what constitutes spot zoning. Does this level of conversation with the developer violate state bidding laws?

Steve Ellis states that they did not request a written opinion, but the Town did ask KP Law a key question: if someone proposes to change the scope, what is acceptable or what would trigger a whole new process? You can make something smaller, not bigger, and not change its substance." The Town was advised by KP Law that this is legal on the basis that there is a documented lack of land for industrial development in the community/region and a documented lack of land for housing development. Spot zoning is seldom held and confirmed in Massachusetts. The Town also asked if there is an issue if the company (that was the imputes for the change) wanted to bid on an RFP. They may bid. The sale price of the parcel would be the same as other sales like Judd Wire: \$25,000 for usable acre.

...from a member of the audience: The whole zoning thing is against the Montague Zoning Bylaws. They skipped steps. The "charade" will be determined by Town meeting, and it will go to court for 10 years.

Kristi Bodi (Turnpike Road) has been walking her dogs on those trails for about 20 years and the wooded area adds to her enjoyment. She believes that there should be an environmental impact review of the "beautiful little forest." Adding that she works for Judd Wire and they cannot find employees because the area needs housing. (Although she does not see that parcel as suitable for housing.) Why doesn't the developer purchase the land and THEN petition the Town for rezoning?

Michael (High Street) asks if the Town is looking to make money off of the sale of the land? (Yes) He mentions other properties that are currently for sale, like the Elks property.

from a member of the audience ...to me it is a done deal. You have already decided what to do.

Mrs. Booska: Once you make the zoning change then the door is wide open for the permit. She thinks it is better to encourage developers to build outside of neighborhoods by helping them build infrastructure in more rural areas...get them out of the residential area."

Jackie agrees that the hearing is a rubber stamp.

Ron Sicard asks the Planner the amount of land that is already in preservation. The Town Planner answers about 60%. One of the highest in the state.

Elizabeth Erving clarifies process and timeline:

- May 23, 2023 – At its May 23, 2023 meeting, the Planning Board held an initial discussion regarding a possible zoning district change to Parcels #21-0-152 and 21-0-004 located along Turnpike Road from Neighborhood Business (NB) to Industrial (ID) Zoning District. The Planning Board expressed their support of considering this proposal and their wish to continue discussing this at the Planning Board’s June 27, 2023 meeting.
- June 27, 2023 – At its June 27, 2023 meeting, the Planning Board continued its discussion regarding a possible zoning map change to Parcel # 21-0-152 and #21-0-004. The Planning Board discussed whether a possible change should be to General Business (GB) instead of Industrial (ID) Zoning District, as it would allow a permit pathway for a possible “Manufacturing, processing, or research” and “Multi-family dwellings, including mixed use” use to occur. “Multi-family dwellings, including mixed use” is not allowed in the GB Zoning District. Recognizing that there is a shortage of commercial and industrial land available in Montague, and that there is a housing crisis in Montague, the Planning Board agreed that General Business (GB) would be better suited as it would allow the ability to consider either use through the review and approval of a Special Permit application. The Planning Board decided that they will host an info session at its July 25, 2023 meeting.
- July 25, 2023 – At its July 25, 2023 meeting, the Planning Board held an info session regarding the possible zoning map change. The abutters within 300 feet of Parcels #21-0-152 and 21-0-004 were notified by regular mail and a legal ad was published in the Greenfield Recorder. A presentation was provided, including an aerial overview showing the lack of available land for Manufacturing, processing, or research” parcels located in the two zoning districts that allow the use to occur - GB and ID Zoning Districts. The Planning Board invited members of the public to comment and to ask questions. The Planning Board voted 4-0-0 to initiate the zoning petition to the Selectboard.
- August 17, 2023 – On behalf of the Planning Board, the Planner requested the Selectboard during its August 17th meeting to initiate the zoning petition and to refer it back to the Planning Board in order to hold a public hearing. The Selectboard voted 3-0 to initiate the petition and to refer back to the Planning Board.
- August 16, 2023 – At its August 16, 2023 meeting, the Montague Economic Development and Industrial Corporation (EDIC) reviewed the proposed zoning map change to redistrict Parcel # 21-0-152 located along Turnpike Road from Neighborhood Business (NB) to General Business (GB). After board discussion, the EDIC unanimously voted (6-0) to support the proposed zoning map change. The EDIC noted the EDIC Economic Development Plan recognizes the shortage of commercial and industrial land in Montague and supports thoughtful planning efforts to sustain and expand Montague’s commercial base.
- August 22, 2023 – At its August 22, 2023 meeting, the Planning Board opened the public hearing for the proposed zoning map change to Parcels #21-0-152 and 21-0-004 located along Turnpike Road from Neighborhood Business (NB) to General Business (GB) Zoning District. The abutters within 300 feet of Parcels #21-0-152 and 21-0-004 were notified of this public hearing by regular mail and a legal ad will be published in the Greenfield Recorder. A presentation has been provided by the Planner, including an aerial overview showing the lack of available land for “manufacturing, processing, or research” parcels located in the two zoning districts that allow the use to occur - GB and ID Zoning Districts. The Planning Board Chair opened it open up for public comment. The next step is for the Planning Board to decide whether to vote to recommend (or not) the proposed zoning map change to be included in the Town Meeting warrant. The vote tonight is a recommendation only.

Steve Ellis continues that the Select Board also decides if the recommendation gets on the warrant.

Rich Kuklewicz reiterates that rezoning was a conversation that happened years ago. Rich sees this as an opportunity for the community; there is a shortage of manufacturing and high paying employment. The Select Board voted to refer this to the Planning Board in order to hold a public hearing; there is no back room deal for a

company. The Town owes it to the larger community to bring this opportunity forward. He encourages the Planning Board to vote their conscience.

Tina thinks that Rich makes sense, but “nobody was notified...no robo call, no letters.”

Ron Sicard responds that the abutters were noticed and there was a legal notice in the newspaper.

Julie and Keith (via ZOOM) think that bringing business to the Town is great, but we have overlooked the West Mineral Road (30 acres). Why is this not a prime location?

Ron Sicard responds that “the Elks property” is currently for sale but without Town water and sewer.

Steve Ellis responds that the company did not ask for land without services currently.

The Planner tries to identify on GIS the Town owned property mentioned on West Mineral Road.

Steve Ellis comments that if a zoning change fails then a company has the option of considering other things and talk to the community to bring water, sewer, and 3-phase power to the lot. It would be a multi-million-dollar investment.

John Howland (High Street) would like to step back and confirm that rezoning would have no impact on Springdale Cemetery. Howland asks if the Board if they restricted their search for parcels with services? Ron Sicard answers “yes...because it made the most sense.” Howland comments that a problem with the presentation is that it started with a developer. It would have been better to start with a zoning change that they wanted to make, regardless of developer. He observes that many other manufacturing companies are owned outside of Montague. John Howland encourages us to widen our thoughts from NE-Xt.

Todd Brunelle clarifies that the West Mineral Road lot has a water main and electricity.

Jennifer Waryas (Finance Committee) asks about the documentation from the time the Safety Complex lot was purchased. What was the zoning and motivation to purchase a large lot?

John Howland remembers the 2012 purchase from the church. The Town developed only a piece for the Safety Complex because of an endangered (turtle) species. This is an opportunity to rezone the awkward lot. The endangered species issue has been cleared, as Parcel #21-0-152 is not located within MassWildlife’s Natural Heritage & Endangered Species Priority Habitat for Endangered Species or Estimated Habitats of Rare Wildlife.

Jennifer Waryas asks about a more nuanced zoning? Ron Sicard responds that happens during the Special Permit process.

Ariel Elan reiterates the need for an endangered species assessment. She thinks the statement from the neighborhood community should be weighed more heavily than the interests of Montague residents, as a whole.

Francia Wisnewski (Turnpike Road) can see two sides of the conversation and encourages the Town to assess the values of our community.

Colleen Carlile agrees with Ariel about preserving our quality of life. She reads a statement from the Town website on the subject.

Ron Sicard closes the public comment portion of the meeting.

The Planner calls for a 5-minute break: 8:20pm

Ron Sicard (Chair) calls the meeting back to order. 8:28pm

The Chair does not believe the hearing needs to be continued: he thinks the Board has everything they need to make a recommendation. The concerns of the community have been heard.

Elizabeth Irving notes that because no one spoke in favor of the proposal, “this is a good opportunity to not send... I heard the concerns that people have said today...I am going to vote no.”

Sam Guerin states that he is in a large part in favor of the amendment “while I also acknowledge we have a legal opinion from the Town we do not have legal documentation from the Town....as a point of practice” the Town should have written legal opinions. Sam states that he would like to see the hearing continued.

George Cooke would like to see this amendment go to Town meeting.

The Board discusses “quorum.”

Bob Obear feels strongly that there is a specific legal process, and this is just the beginning. He does not want the legal process to be encumbered... It should go to Town meeting for a decision.”

MOTION by Ron Sicard to remove the ±13.2 acre area of land identified as #21-0-004 (Turnpike Road) from the zoning map change petition; and to recommend the Selectboard to add the following zoning map change to the Town Meeting warrant: to consider an amendment to the Montague Zoning Map petitioned by the Planning Board to redistrict a ±15.6 acre area of land identified as #21-0-152 (Turnpike Road from Neighborhood Business (NB) Zoning District to General Business (GB) Zoning District. Seconded by E. Irving. VOTE: Ron Sicard (AYE), Bob Obear (AYE), E. Irving (NAY), Sam Guerin (NAY), George Cooke (AYE) (3-0-2). The MOTION PASSES 8:37pm.

PUBLIC MEETING – SITE PLAN REVIEW

SPR 2023-01 - Zaharia Nichita - Request a Site Plan Review approval to construct a 5,000 square foot, 1 story building with 17 parking spaces for an auto sales and repair business, under Sections 9.1.2(a), 9.1.2(b), and 7.2.6 of the Zoning Bylaw, located at **property identified as Millers Falls Road (Parcel #23-0-31)**, General Business Zoning District.

The Planner, Ron Sicard, Samuel Guerin conducted a site visit on August 21, 2023 at the proposed project site with the applicant, Zak Nichita and architect, Joseph Mattei. All paperwork was submitted per requirement.

Public comments were submitted by Gina Govini, Executive Director of Franklin County Regional Housing & Redevelopment Authority and Rural Development, Inc; and from Marla Tobin, from the trust that formerly owned this project site and who sold the land to the applicant.

The Planning Department made a review of the application and requested the applicant update the submission to include a proposed limit of work, the proposed limit of the gravel, contours, details of the temporary shed, the location of the stream with a 50’ buffer, shade trees, location of fence and height, exterior light fixtures with cut sheet, a planting plan and list species, stormwater management plan and a surveyed site plan.

Ron Sicard describes the property including the ravine and intermittent stream.

George Cooke thinks a professional should mark the setback from the intermittent stream.

Architect Joseph Mattei describes the plan to level the property by “cut and fill.” He believes he is qualified to make that calculation. George Cooke requests that the plan be surveyed by the professional land surveyor; and

that the stormwater report be stamped by a civil engineer, not by an architect. He requests that the contours be in 1-foot increments, which is standard. Sam Guerin agrees with George Cooke about the need for an engineer.

The Planning Board would like the cut and fill analysis and the stormwater plan be prepared by a professional engineer, especially because of the topography changes and its close proximity to an intermittent stream.

The numbers and contours are not on the plan. The plan is deemed incomplete, and the applicant will need to return.

Elizabeth Erving reviews the bylaws with regard to the need for a professional engineer.

The Planner discusses the next regular Planning Board meeting in September and asks the applicant to resubmit the plans by 9/18. A follow-up site visit is also requested by the Planner.

From the audience, Doug Smith (Doug's Auto Body, Gill) speaks to Zak's credibility and support for the project.

Gary Bourbeau (Gill) also speaks to Zak's credibility and support for the project. He can see a "give and take" with Tech School students.

The Planner reads a letter from Marla Tobin (trust of the former owner) also in support of the project and for Zak as a business owner.

NEW BUSINESS:

The Solar Energy Committee has been drafting a Community Action Solar Plan for the Town. A copy has been sent to the Board members. The Planner has asked the Solar Energy Committee to attend a future Planning Board meeting to present the key findings.

MOTION by R. Sicard ADJOURN. Seconded by E. Irving VOTE: 4-0. MOTION PASSES 8:58pm