

 ZONING BOARD OF APPEALS

 **TOWN OF MONTAGUE**

 ONE AVENUE A

 TURNERS FALLS, MA 01376

 DRAFT MINUTES FROM JANUARY 29th, 2025

NOTICE OF PUBLIC HEARINGS #25-01 #25-02 & #25-03

6:30 PM in the Upstairs Conference Room and VIA ZOOM

1 Avenue A

Turners Falls, MA 01376

**Due to COVID-19 Public Participation will be by:**

**Join Zoom Meeting:**

**https://us02web.zoom.us/j/88270799034?pwd=lgnfx1b7svqmiIBgzzmgz9goEnwl9C.1Meeting ID: 882 7079 9034 Password:** 209154

**Dial into meeting: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592**

Meeting being taped.

Votes may be taken:

**ZBA #25-01: 17 Sunset Drive Turners Falls, Ma**

PRESENT: Joshua Lively Chairman, William Doyle Vice Chair, David Jensen Member, Robert Obear Member, Zach Nichita Member, William Ketchen Zoning Enforcement Officer, and Jamie Carey, Clerk.

Hearing opened at approx. 6:34pm

JL: It's a pretty informal typically, unless we, you know, I assume it'll be pretty informal tonight. All right. Whatever applicant is 1st we'll go, and we'll just do it present or give us a brief explanation of whatever you want to the board, and then the Board will follow up with some questions. Then where there is a public comment period, and after that, we'll, you know, take a vote. So, without further ado, Jamie, would you read the public notice?

JC: Notice is hereby given that the Montague Zoning Board of Appeals will hold a public hearing on Wednesday, January 29, 2025 at 6:30 p.m. VIA ZOOM and IN PERSON at the Montague Town Hall upstairs conference room, One Avenue A, Turners Falls, MA at the request of Darlene Kuzmeskus to allow an amendment of Special Permit #24-05 to reduce a side yard setback due to an error under sections 5.5.3(b), 5.5.1, 9.2.5, and 9.2 of the Zoning Bylaws, located at 17 Sunset Drive, Turners Falls, MA (Map 14 , Parcel 206), in the Residential 1 (RS1) District. The filing is available for review at Town Hall. In-person meeting details and remote meeting login information can be found at www.montague-ma.gov/calendar.

Bob Obear: Thanks.

JC: Okay, I do have one of abutter's responses. All right.

JL: Enter it,

JC: as a direct abutter on the side yard where the miscalculation occurred. We are not in favor of granting this amendment last summer. The footage in that area was reduced from 10 feet to 5 feet.

Recently I was told by Darlene, the owner, that the error made by Mowry and Schmidt was 4 inches. However, according to your documents, the error is greater than that. The new distance at the corner closest to our property will now be 3 feet 11 inches. This is not acceptable. Is there a limit? If so, what is it?

JL: Thank you.

Bob Obear: Hmm.

JL: Yeah, if you want to come up real quick, it should be pretty straightforward.

MOWRY SCHMIDT: I'd be more comfortable at home, but usually I'm on that side of the table and not on this side of the table. But yeah. So there was an error made. It was my error, I'll admit to it 100% I was on the phone with Robin, and we were discussing another project that was 14 by 12, and Dave Bernard was doing the concrete work for us, and I was a little bit nervous to begin with, about that back corner, because of the way the property line goes. Forgetting my survey in a little bit. That point 7 is not 7 inches is actually greater than that. But so I spoke to Robin the day before, and I wanted to reduce it by a couple inches, just to give us a little bit more leeway on that back corner. So. talking about 12 by 14, Dave asked me. He goes, hey, Robin said that you want to do something with the measurements. And I said, Yeah, I want to reduce it by 2 inches, so make it

1310 instead of 1110, because I had 14 in my mind from the conversations. That's how the error was made. It was later found out,when the excavator, when young, got there, and Jay said, Hold it, that corner is a little bit further. What's wrong? We took measurements, and I went. Stop what we're doing. Mowry Schmidts been in business for over 75 years. Integrity is everything to us. So we, you know, we came forward and said, we made the mistake instead of just trying to cover it up and move forward with it, hoping that nobody ever notices that so that's where we are. That's how we ended up here. I'll let you guys go if anybody has anything to do.

DJ What was the original setback?

MS 5 feet. Yeah. So we're 13 inches.

BK Yeah, you need 3 foot 11 on the back corner.

MS Yeah, on the front. We're fine. Yeah. So from about here to here. Yeah, 13 inches is different. Right? So on the front we're at. I think it was setbacks in this district to 3 feet.

JL: So we commonly reduce the side yard setbacks with special permit to 3 feet with sheds. We do it with sheds, with sheds.

DJ 3 feet is sort of it, lawnmower width.

DJ None of none of the trees are owned by you, darlene.

Darlene Kuzmeskus’s iPad (3): No, no, they're not. Well. yeah. A handful of them are in front of the property. But then the boundary actually goes through some of the trees over the years because they've gotten so big.

DJ But in the back corner.

Darlene Kuzmeskus’s iPad (3): When the back corner. By the time you get to the back of the yard the tree line is all on her property.

Yeah.

DJ But he's got control of it. Then. Okay, she does cool.

JLIn that case I'd entertain a motion to allow the amount to amend special. Permit 24-05 , and reduce the side yard setback to 3 feet under sections 5.5. 3 B. And 5.5. 1 9 2.5 and sections 9.2 of the zoning bylaws.

DJ I just add to that that it's only for the back corner, and it's not meant to be for their use.

JL Right? But yes, yeah.

DJ it's incorrect. It's do. Acknowledge the error and allow it to go through.

JL: Agreed. Yeah.

Bob Obear: Yep.

Bob Obear: So no further encroachment for any future additions or work.

Darlene Kuzmeskus’s iPad (3): Can, can I? Can. I just make one comment. The 4 inches that I originally told her was not true. It was 9 inches, but that's when we 1st discovered it. So I went over and knocked on her door.

But I do want to make mention that it's not going to affect her in any way. I mean, you can't even barely see it now in the winter, and on the other side of her property that particular neighbor has a fence that's on her property by 6 inches.

and you know that's why I don't understand, after 40 years living next door, why she's so worried that I'm getting within 3 feet of the border where her dormicile home is is closer to the fence. That's on her property, so I don't know why the issue. So I'm sorry about this.

JL: No problem. That's why we have this board. This is what we're here to deal with stuff like this. So, I'll see.

Bob Obear: Sorry. Sorry, Josh, no, I'm just curious. If there was a a surveyor or civil engineer on the job.

MW There was. We had a survey to begin with. And yeah, yeah, and then.

Bob Obear: Fair enough.

Bob Obear: Still happen.

MW Yeah. And I forgot my survey and thought 7 inches was actually 7. The point 7 was 7 inches. And it's actually not. It's almost like like 8, almost 9 inches. So I was trying to reduce it not to ear on the side of judgment, and I aired in the wrong way by adding a foot

JL does anybody have any other comments before the vote? The board takes a vote?

MS: 1st time. So I will definitely make sure that I triple check. I will definitely triple check before we build. This time.

Bob Obear: Okay.

JL They want to move that.

Bob Obear: And so moved. Bob will bear.

Darlene Kuzmeskus’s iPad (3): All set.

 DJ: Second I’ll second, I guess aye.

JL: : while Bob OBear moved it, Jenson second,

 all in favor.

Bob Obear: aye, Bob OBear.

DJ With the stipulation,

JL with the stipulation that it's not that correct?

BD: Yeah, Bill Doyle, I agree.

JL: Josh, lively? Aye, yes,

MS: so cool, gentlemen, thank you very much for your time. Cut once measure twice. We will not make this error again.

Bob Obear: Measure twice, cut once.

MS: There you go!

Darlene Kuzmeskus’s iPad (3): Thank you.

Building Inspector: Thank you very much. Have a nice day.

Darlene Kuzmeskus’s iPad (3): Thank you. Goodbye. Bye.

JL: Motions to allow an amendment of Special Permit #24-05 to reduce the granted side yard setback from 5 feet to 3 feet due to an error under sections 5.5.3(b), 5.5.1, 9.2.5, and 9.2 of the Zoning Bylaws, located at **17 Sunset Drive, Turners Falls, MA** **(Map 14 , Parcel 206), in the Residential 1 (RS1) District.**

Joshua Lively, Chair - **YES** William Doyle IV, Vice Chair – **YES**

Bob O’Bear - **YES** Zaharia Nichita **– YES**

David Jensen – **YES**

JL All right looking for a motion to close public hearing. 25 0 1. i'll make a motion to close.

Bob Obear: Second.

JL Doyle seconds obit our Doyle motions to close.

Bob Obear: We'll be in seconds. Yeah.

JL All right, all in favor of closing the hearing.

PRESENT: Joshua Lively Chairman, William Doyle Vice Chair, , David Jensen Member, Robert Obear Member, Zach Nichita Member William Ketchen Zoning Enforcement Officer, and Jamie Carey, Clerk.

**ZBA #25-02 91 Taylor Hill Road Montague Ma**

JC: Notice is hereby given that the Montague Zoning Board of Appeals will hold a public hearing on Wednesday, January 29, 2025 at 6:30 p.m. VIA ZOOM and IN PERSON at the Montague Town Hall upstairs conference room, One Avenue A, Turners Falls, MA at the request of Will Van Heuvelen and Zoe Abram for a Special Permit to allow the construction of a detached Accessory Dwelling Unit under sections 8.5 and 9.2 of the Zoning Bylaws, located at 91 Taylor Hill Road (Map 48, Parcel 90), in the Agricultural Forestry (AF) District. The filing is available for review at Town Hall. In-person meeting details and remote meeting login information can be found at www.montague-ma.gov/calendar.

JL Thank you so much. Will, how are you well doing today?

**Will Van Heuvelen:** Appreciate you all taking the time. You want me to talk about the project. Yeah. So, so we moved here from Amherst about 7 months ago, and my partner's parents are eager to move here as well. The house that we that we moved to is not big enough to accommodate them. So we're hoping to build an accessory dwelling unit toaccommodate them as well. We have 2 young children, and they're really excited to be here with their grandchildren.

and that's the thrust of it. We had gotten pretty far in the design process before we realized that unfinished spaces would count towards total square footage. So the reason why we're here is because we have this design that we are excited about, and we are hoping to proceed with.

JL: what do you guys think.

Bob Obear: I don't have an issue.

Bob Obear: I think it recently sort of came up in the Planning board. One of our reviews of the New ADU State proposed Bylaw, is that they are trying to count Attic space and unfinished basements towards the square footage, which I think is absolutely ridiculous, because now you're talking about like a 300 square foot space. more or less. If that's your footprint.

BK Building code definition of habitable of gross floor area is what.

Bob Obear: I understand they right now.

Bob Obear: It's contradictory in the State bylaws. It's kind of weird.

BD But the modules owned by us.

BK We don't look at it like that. The only thing that's changing is whether it's going to be a by right issue or special permit. So if it meets those 4 criteria of the State, then it's a by right. You don't have to come to the board at all. So if you're gonna build that by their definition, 450 square foot, whatever ends up being, I could approve that without any approval from anybody else. If you want to go up to the 900, how we've been doing it, you could still special permit it.

Bob Obear: Correct.

BK And like you guys and the plan board, you could make it a bigger. You could go 1,000 or 1,200 square foot if you guys wanted to change the bylaw to that, too, we could still permit up to that as well.

Bob Obear: I don't know. The planning board gets a little stuck these days in the fine print, and.

BK Yeah.

Bob Obear: Sort of interesting.

DJ So what is the square footage of this as 897,

JL it gets like, right under 900.

JL Yeah, did you know? 897. Yeah, yeah.

Bob Obear: So is it because it has a basement, or is it? Is there an attic? Yeah, it has a basement, you know.

DJ almost more deck than floorspace. I like that. And the basements unfinished as of as of today. Or

Dj that's the plan. It's a walkout basement. Right?

WV Yes, okay.

JL Technically, you can't finish the basement easy. How to keep it.

97 originally, because it's an 80, and it's like the Fosters road one that had a walkout basement on it, too. Right?

DJ Hmm, cool. Yeah.

DJ just the area of the lot. It's a big one.

WVRight? Yeah, yeah. So it's the property is 2 separate lots of this lot is I think it's 16 acres total.

DJ And there's another lot other than what's here. Yes, immediately south for the sort of southwest field on budget driveway.. This lot right here is also associated with the property right here it is. So this this is, I believe it's around 16 acres. And this is another 8 acres or so right here. Okay.

DJ I'm good.

Bob Obear: Yup, I'm good. Build it.

JL: do they wanna make a motion?

JL You basically just move to want number 2 here, all you have to do is say, move to, and then allow here to here.

BD I can do that all right. I'd like to move to allow a special permit to allow the construction of a detached accessory dwelling unit under Sections 8.5 and 9.2 of the zoning bylaws located at 91 Taylor Hill Road.

Bob Obear: Second, Bob Obear.

JL Bob Obear seconds it, all in favor.

DJ Jensen, aye.

BD Doyle Aye.

Bob Obear: Obear, aye

JL; Lively eye, cool? Alright? Well, thank you, gentlemen, I enjoyed that. And yeah, we'll be in touch.

The Montague Zoning Board of Appeals granted a Special Permit for **Will Van Heuvelen and Zoe Abram** allow the construction of a detached Accessory Dwelling Unit under sections 8.5 and 9.2 of the Zoning Bylaws, located at **­­­­­­­­­­­­­­­91 Taylor Hill Road (Map 48, Parcel 90), in the Agricultural Forestry (AF) District** with the following findings**:**

The proposed Accessory Dwelling Unit meets the requirements under section 8.5 of the Zoning Bylaws.

**The vote of the Zoning Board of Appeals was as follows:**

Joshua Lively, Chair - **YES** William Doyle IV, Vice Chair – **YES**

Bob O’Bear - **YES** Zaharia Nichita **– YES**

David Jensen – **YES**

JL: Josh Lively motion to close public hearing. 25.

WD: I'll second that Bill Doyle.

JL:: All right. All in favor of closing 25-02

Bob Obear: Bob Obear aye.

JL:: lively aye.

Bob Obear: Great.

JL: Okay. Number 3,

**ZBA #25-03 91 269 Federal Street Montague Ma**

PRESENT: Joshua Lively Chairman, William Doyle Vice Chair, , David Jensen Member, Robert Obear Member, Zach Nichita Member William Ketchen Zoning Enforcement Officer, and Jamie Carey, Clerk.

JC: Notice is hereby given that the Montague Zoning Board of Appeals will hold a public meeting on **Wednesday, ­­­­­­­­­January 29, 2025 at 6:30 p.m**. VIA ZOOM and IN PERSON at the Montague Town Hall upstairs conference room, One Avenue A, Turners Falls, MAat the request of **Oliver Williams** for a Site Plan Review to allow the construction of a detached 5,000 square foot garage under 9.1 of the Zoning Bylaws, located at **­­­­­­­­­­­­­­­269 Federal Street (Map 40, Parcel 93), in the Rural Business (RB) District.** The filing is available for review at Town Hall. In-person meeting details and remote meeting login information can be found at www.montague-ma.gov/calendar.

JL Thank you. Oh, yeah, why not welcome back? How you doing good?

OLIVER WILLIAMS; I guess I was here a couple of years ago.

So basically, I just wanted to build a building to put my equipment, undercover and build a little bit of a screen for my neighbors, as well as far as being behind their properties. instead of building a fence. I guess I mean they haven't have any complaints. I don't believe the zoning is rural business. I feel like I fall into that category quite well with the agricultural business that I have. Not looking to grow my business at all with. You know, this expansion of a building. Just basically put stuff undercover and get it out of the out of the elements, and, you know, make it look a little better.

DJ So I'm trying to place this.

OW: You know where my house is? No, that's the last one you were the building inspector we built, that is, across from the little cemetery. No, it's further south than that. A little bit further south. Yeah, the last brown condo. I'm just past that. But then 2, 69, there's like that sharp corner. Yeah, if you go towards serums that way.

Bob Obear: You know.

JL: So it's on the other side of the other side of the street. Yeah.

Bob Obear: Yep.

DJ Go to that rambling old building.

OW: Used to be a horse farm. No past there. Yeah. Past the Horse Farm. It sets back right before Lake Pleasant Road. It's perfect because you can't really see it when you drive by.

DJ Is there a building on it now? Yes, yeah.

BK You approved the site plan for that a couple years ago. Never mind, that's why you don't know. The Board approved it.

BK: No, no, it's it's for a garage for his business. Big big metal garage. Okay? So there's a garage there already. Yeah. And you want an additional 5,000.

OW Yeah, just. But it's I mean, cold storage is basically 3 sided. Yeah, that's the building that's there. Now, that's there. Now, yeah.

DJ where the garage is gonna be.

OW:: Oh, and I mean, I just I feel like this. I mean, it's I guess.

as I build anything else there. I believe I have to come in front of the board because of the size of the square footage that I already have on the property. Correct.

but that with that zoning, I believe once you're over 5,000 cumulative. Or maybe it's less than that.

BK Well, the 3, any building over 3,000 square foot is trigger, anyway the building? But then, yeah, I think there is something in there.

OW: I've read it a lot about it before I bought the property. I mean, I wasn't gonna go buy the property unless Im Pretty sure that I have to. I would. I would think so, probably just the same. My plan is to eventually build a house there in the back, and I don't know if I'll move out of where I am now across the street. I kind of like being separate, but I got Kids and my shop and house are about just about a mile away. Yeah, it's perfect. I will say that. But

DJ maybe I missed it. But your business is what

OW: it's I do a lot of custom farming like I do custom agricultural work for other farms like liquid cow main business. I mean, that's what I do mainly.

and I work for farmers. My business is O Williams farm services is what it is. My business is. Yeah. I haul. I haul millions, millions and millions of gallons of liquid cow manure. it does smell. Yes.

Bob Obear: Brown, gold, brown, gold.

OW: A lot of people don't like it. But yeah. yeah, but I mean, obviously, none of that really, obviously is not taking place there. It's just kind of like a home base. This is where your equipment correct. Correct? Yeah. And your workers.

: yeah, I do work on some stuff in the the building that I built. That's there in the picture is where I work on the some of the equipment. I mean, it's a it's a big yeah.

DJ okay, your own equipment. Yep, yep.

BK this is a site plan thing. Basically, you're the one that came in is the 3,000 square foot.Yeah. So basically, it's giving you guys a little oversight on

Where big buildings are going. Okay?

DJ earlier, you mentioned your neighbor.

OW: 35 feet away from the back. Yeah, it has to be 25. So I'm shooting just to give me a little bit more extra room because I have it. I guess I mean, I don't want to be the guy. That's a couple of inches, too.

DJ: that's all. I guess the pregnant question for me is, why not further away.

Why not further away? Yeah, you're showing a what looks like a fairly substantial drive or.

OW: yeah area. Well, the 1st thing is, I want to keep these 2 buildings separate.

Okay, so that if I ever want to drive between them, I can. Yep, okay. And I could obviously go further away. But I mean how much more ground I don't want to have a huge. If I go further to the South that will make my driveway have to be larger. No, my sort of question was

DJ: Why, why, this particular dimension choice?

OW: I guess I'm just. I'd like to have this area so that if I want to work outside, I can and it will be obviously on this side of the building.

OW: Yeah. So no work on that side on this side over here. No, I mean, I would sit woods right now. I'd like to keep as much of it in woods as I can. I mean, that's

DJ and is any of this drive existing now?

OW:Yes, pretty much, all of it. Yeah, all this is all of that. Yeah, the garage door on this side. Yeah, that's my, yeah. That's a southern facing garage. Yeah, this is the driveway. They come in and come around like this into the building. Okay?

And my my wife would like me to build her a horse riding range there. But that's you know, even that's even larger than that. This project, you know, it's gotta be like 60 by 150. And I'm like, Yeah, no, that's gonna fit. I might be back in a couple of years, so I don't know how I mean I don't know. How. Where do you? Where do you draw the line? I guess, as far as that goes, as far as you know, size of the building, or I mean. I know this is more of a use thing. But

JL you're asking a question it will be hard for us to answer. Yeah, I'm sure.

DJ Make sure any mitigation that might be needed. As as we move down the road, as far as you know, like they're talking about exterior lighting.

you know. Why exterior lighting is a big one, or the.

Bob Obear: Are there any comments from the neighbor.

Are there any comments from your neighbor?

OW: I've never had any complaints on it, and none in the mailing.

BK It's not a hearing. It's a public meeting.

JL Okay, because it's not really. It's not really a special permit. No, no special permit, just site plan review. So it's just you can have both. But this is just a plan. Review. Okay,

Bob Obear: Right, we got that issue.

OW I wish I could pick up a building that I built at my house and move it over there. But that's not gonna work

.

JL Yeah. But anyway, cool anything else. Well.

Bob Obear: No.

JL Do we? Wanna do? We're motioning, what do we? What's the site plan? Yeah.

DJ is the building part considered part of the Site plan are we approving?

BK It must be the I don't think you're proving that it's more the site plan itself, and probably the location. Yeah, that

DJ the language that Bill can do here.

BD: I make a motion to approve the site plan to allow the construction of a detached 5,000 square foot garage under 9.1 of the zoning bylaws located at 2 69 Federal Street map, 40, parcel 93.

Bob Obear: So moved Bob OBear.

DJ At the location,

JL so he just moved it.

Bob Obear: I'm gonna second it. Sorry.

DJ So at the location and orientation shown

BK according to submitted pipeline. Yeah, yeah.

JL We approved the Site plan right? Yeah. So he can't move now. He's locked into where that site plan, right? If I wanted to move it, I have to come back 40 degrees in another direction. For some reason we'd have to check it again, which we will do. Obviously you saw that

Building Inspector: occasionally.

Building Inspector:, all in favor, Jenson, aye, Doyle Aye, is that okay?

Bob Obear: Obear, aye

Building Inspector: Lively eye. Okay? Okay, great, awesome.

The Montague Zoning Board of Appeals approved the site plan provided by **Oliver Williams** to allow the construction of a detached 5,000 square foot garage under 9.1 of the zoning bylaws located at **269 Federal Street (Map 40, Parcel 93), in the Rural Business (RB) District w**ith the following findings:

1. The proposed Accessory Building meets the requirements under section 9.1 of the Zoning Bylaws.
2. The proposed Accessory Building is consistent in the location and orientation as presented to The Board in the site plan submitted by the applicant.

**The vote of the Zoning Board of Appeals was as follows:**

Joshua Lively, Chair - **YES** William Doyle IV, Vice Chair – **YES**

Bob O’Bear - **YES** Zaharia Nichita **- YES**  David Jensen – **YES**

OW Well, these other, these accessory dwellings? Yeah, worse, they have to build new septic system. Yeah, if or not. I'm just curious. This is totally separate. You got 2 options. You can modify your existing

BK 3 options kind of maybe your system's big enough that you can hold the extra bedroom right? Exactly. The second is, they can approve you modifying the existing system which I : wouldn't recommend. You can do it so usually they end up just putting in a new system for it. Could you eliminate a bedroom and the other house? Sure you could. Yeah, permanently. You could do that right. Take a wall out, combine 2 into one that's been done before. Yeah, I'm just curious. It's kind of like a new thing. It seems like, it's it's going to be all over. Yeah, we're getting a lot of it. Yeah, it's a big thing in Massachusetts. I guess. Yeah, you don't have enough rooms. Now we're gonna

Building Inspector: right. At least, we have room in the town. That's a big, that's a big lot. Yeah, right? Exactly 17 acres, right? I'm all set. I'm looking for a motion to close public hearing. 23, 0 3.

Building Inspector: Lively. Second, that motion all in favor of closing the hearing.

Building Inspector: Oh, another dumb question, is it a hearing? It's a no, it's a meeting right? I've missed that part of the ad. That's my fault.

Building Inspector: but it's it's a meeting. So we're not to close that

we have to close the regular, whatever it is. Right. Public meeting.

Building Inspector: that's a real life is okay.

Bob Obear: Obear aye.

Building Inspector: Lively eye. Yeah, that's my mistake. Sorry it says public meeting right here. Any other, do we?

Building Inspector: yeah. Sorry. We'll get looking for a motion to close the meeting. ZBA, meeting all in favor, close it.

Bob Obear: aye.

:Meeting closed approx.. 7:13pm