

Montague Planning Board

One Avenue A, Turners Falls, MA 01376 (413) 863-3200 Ext 207 Fax: (413) 863-3222 Email: planner@montague-ma.gov

June 18, 2019 6:30 PM

Town Hall – **Second Floor** Meeting Room
One Avenue A
Turners Falls, MA 01376

MEETING MINUTES

Members Present: Ron Sicard (Chair), George Cooke, Elizabeth Irving, Fred Bowman, and Matt Lord (Associate)

Member Absent: Bob Obear

Staff Present: Walter Ramsey-Town Planner

Meeting was opened by Ron Sicard, Chair at 6:30 PM.

Approval of March Minutes:

Motion by Ron Sicard to approve the March 26, 2019 Minutes as presented. Seconded by Elizabeth Irving.

Motion passes

Approval of May Minutes:

Motion by Ron Sicard to approve the May 28, 2019 Minutes as presented. Seconded by Elizabeth Irving.

Motion passes

Review, discuss and approve rule regarding holding of security pursuant to G.L. c. 44, § 53G½

The proposed rule is found under Article 6 of the Planning Board Rules and Regulations. This addition was drafted and recommended by Town Counsel in light of the Town trying to figure out how to set up an escrow account for the \$30,000 for the sidewalk improvement projects at 253 Millers Falls Road. In order to set up the account, a rule has to be adopted to handle those securities. Planning Board has not held a bond since the 1990's and there are no known regulations. This will allow the Planning Board to hold a security for the performance of any obligations that are part of a special permit or site plan approval process. The Planning Board has the right to say what type of financial vehicle it has to be: cash, bond or any type of financial guarantee thus, giving the board some flexibility. The funds are put in a separate account and NOT in the general fund and can be accessed and has procedures in which it can be released back to the applicant once the request has been submitted. This will allow the Town Treasurer to set up the fund and that the Planning Board knows what to do with the funds if it is still there in 15 years. If the Planning Board determines that the obligations have not been met there has to be notice given to the applicant that the funds will be spent.

Motion by George Cooke to add the Planning Board Rule and Regulations Article 6 which is the rule regarding holding of a security pursuant to G.L. c.44, §53 G ½. **Seconded** by Fred Bowman. **Motion passes.**

Review, discuss and approve Performance Agreement with 253 Organic LLC for SP 2018-02

Planner has been working with the Town Counsel in setting up this escrow account. Walter had not dated the record of accepted amendment due to waiting for feedback from the Town Counsel to be

included. The Town Counsel did suggest using specific language to address in particular how the \$30,000 is being set aside. The applicant shall enter into security agreement with the Planning Board covering the use of the escrow funds and shall pay said funds to the Town prior to obtaining a building/occupancy permit. Unless specifically, amended by this decision, the site plan approval and special permit decision filed with the Town Clerk on March 28, 2018 relative to the premises remains in full force and effect. The applicant shall construct the project consistent with the plans submitted, as amended and approved by the Planning Board on March 26, 2019.

Motion by Elizabeth Irving to authorize Ron Sicard to sign and approve the Performance Agreement with 253 Organic LLC for SP 2018-02. **Seconded** by Fred Bowman. **Motion passes.**

Accept standard Accessory Apartment Covenant

This was discussed at previous meeting and had straw pole approval from the Planning Board meeting pending approval from Town Counsel. There were not any substantive additions that would need to added or discussed from counsel, but a formal vote is required.

Motion by Ron Sicard to accept the Accessory Apartment Restrictive Covenant. **Seconded** by George Cooke. **Motion passes.**

Review ZBA files #19-02 and #19-03 and #19-04 for accessory apartments filed under new zoning bylaws.

The Zoning Board has received three applicants for accessory apartments under the new zoning bylaws. The Town Planner has been monitoring the process and supporting a smooth roll-out of the new accessory apartment bylaw. To that effect the Board agreed to offer these comments, as drafted by the Planner, for ZBA consideration.

1. **Standard Restrictive Covenant.** Subsequent to 8.5.4(c) The Planning Board has prepared and approved a standard restrictive covenant for all accessory apartments permitted under the new bylaws. This covenant has been approved to form by Town Counsel. This covenant must be executed and filed at the Franklin County Registry of Deeds prior to occupancy. When a special permit is required, it should be declared as condition in the decision.

2. **Clarification of intent: Integration of utilities 8.5.4(b)** The bylaws state: “Utilities and water supply shall be integrated with the single family dwelling unit”. The Planning Board’s intent for including this standard is twofold 1) to prevent accessory apartments from becoming de-facto duplexes or multiple primary single family dwellings where such a use is not otherwise permitted 2) to prevent the construction of multiple water wells and septic systems on a single lot for environmental and public health reasons. Overall the Planning Board’s intent in developing this bylaw is to **promote** the development of accessory apartments in accordance with the purposes of section 8.5.1.

Electricity and Natural Gas- It has become clear that there is a strong preference for homeowners and utilities that a new, separate electric service to detached accessory apartments is practical and desirable in some instances. While the Bylaw generally references “utilities”, the regulation of electrical and natural gas connections is generally not under the purview of the Zoning Bylaws, while sewer is. *The Planning Board sees it as appropriate to waive this requirement when specifically requested by the applicant- As in the cases of SP#19-03 and #19-03.*

Water and Sewer- Water and sewer are intended to be integrated with primary unit. The Planning Board suggests that Accessory Apartments with separate water and/or sewer should only be allowed under very narrow and unique circumstances.

- 1) the site is connected to municipal water/sewer and has a unique layout (i.e. frontage on two streets)
- 2) applicant can demonstrate that compliance would present substantial hardship and
- 3) a two-family dwelling unit is otherwise a permitted use under the zoning. (i.e. neighborhoods where density is promoted)

In the case of file #19-03 (93 K Street) The Planning Board supports granting the special permit and relief to section 8.5.4(b) given the narrow circumstances identified in criteria 1, 2, and 3 above. Using these criteria will narrow the precedent.

3. Clarification of Intent: Board Health Approval of on-site Septic System 8.5.4(i). The Bylaw states “for dwellings to be served by on-site septic system, the owner must obtain a letter from the Board of Health stating that the existing sewage disposal system is adequate for the proposed Accessory Apartment before a Building or Special Permit can be obtained.”

In some cases the septic will need to be upgraded to accommodate a new accessory apartment. The Planning Board feels that a written statement from the Board of Health explaining what improvement will be required to bring the septic system into compliance should suffice to meet this standard. This can allow the applicant to obtain a special permit prior making substantial investment into a new septic system design and construction.

In the case of file #19-02 (10 Swamp Road), the applicant provided a statement from the Montague Health Director that lays out requirements and necessary improvements to meet state sanitary code for the proposed Accessory Apartment. The Planning Board’s position is that this statement should suffice for the purpose of meeting standard 8.5.4(i). The Town can not expect homeowners to invest in expensive septic upgrades and designs prior to applying for a Special Permit. Further, Title V requires a disposal works permit in order to obtain a building permit (i.e. there are adequate checks and balances).

3. Accessory Application Form. The Planning Department has prepared an Accessory Apartment Application form. This form should be used for accessory apartments from this point forward. It makes sure the applicant provides critical information, provides a reference to the relevant bylaws, and has a template restrictive covenant.

Motion by George Cooke to authorize the chair to sign the letter to the ZBA when the final copy is ready. Seconded by Elizabeth Irving. Motion passes.

Motion by George Cooke to adjourn the meeting at 7:46 PM. Seconded by Elizabeth Irving. Motion passes.

Approved by: _____ Date: _____

Exhibits:

Policy of Holding Security

SP #2018-02 Performance Agreements with 253 Organics LLC

Accessory Apartment Covenant

Rollout of New Accessory Apartment Zoning Bylaws- Comments on ZBA files #19-02 and #19-03