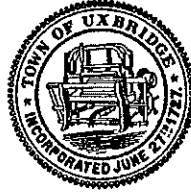


James Smith, Chair
Barry Desruisseaux, Vice Chair
Peter Pavao, Clerk
Joseph Leonardo, Member
Justin Piccirillo, Member



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PLANNING BOARD MEETING MINUTES WEDNESDAY, October 19, 2016

Minutes of the Uxbridge Planning Board regularly scheduled meeting on **Wednesday, October 19, 2016, at 7:00 P.M.** in the **Board of Selectmen Meeting Room, Uxbridge Town Hall, 21 South Main Street, Uxbridge, MA.**

Present:, Chair James Smith Vice Chair Barry Desruisseaux, Clerk Barry Peter Pavao, Member Joe Leonardo, Member Justin Piccirillo

I. CALL TO ORDER

It being approximately 7:00 pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chair, who led the Pledge of Allegiance.

II. PUBLIC HEARING(S):

Continued from October 12, 2016

- 1. FY16-22 Definitive Subdivision Modification Application** - The Owners of record, **Alfred & Jacqueline Ricca**, are seeking approval of a proposed definitive subdivision modification entitled **King Street Estates** revising the subdivision from five (5) lots on a public roadway to four (4) lots on a private roadway, total acreage of tract being approximately 12.96 acres. Property is located on **128 King Street/15, 16, 25, & 26 Ricca Way Uxbridge, MA.** The property is shown on the Town of Uxbridge Assessor's Map 53, Parcels 679, 1494, 1548, 1455, & 1461. The title to said land is recorded in the Worcester District Registry of Deed Book 25464, Page 136. Property is located in an agricultural zone
MOTION I: to continue the Public Hearing to November 9th made by Mr. Desruisseaux. Motion was seconded by Mr. Leonardo. Motion carried 5-0-0.

Continued from October 12, 2016

- 2. FY17-03, Cote Lane, Definitive Subdivision Application** - The Owner/Applicant of record, **Stage One Investors, LLC** is seeking approval of a seven (7) lot subdivision on a 490' cul-de-sac on a total acreage tract of 4.69 acres. Property is located on **Cote Lane, Uxbridge MA on the southerly side of Carney Street to the west of Marywood Street.** The property is shown on the Town of Uxbridge Assessor's Map 24A, Parcel 1434. The title to said land is recorded in the Worcester District Registry of Deeds Book 54575, Page 91; Property is located in Residential Zone A.

a. Continued to November 9th per applicant's request

- 3.** Pursuant to MGL, Chapter 40A, the Uxbridge Planning Board will hold a **Public Hearing** on Wednesday, October 19, 2016 at 7:00pm in the Lower Town Hall, 21 South Main Street, Uxbridge, MA to **review, made recommendations/comments, and vote favorable/unfavorable action on the following warrant articles** for the Fall Annual Town Meeting of October 25, 2016:

***MOTION I: to take ARTICLE 10 out of order made by Mr. Leonardo. Motion was seconded by Mr. Desruisseaux. Motion carried 5-0-0.**

****Vote to close the public hearing and votes on each of the Articles were taken after all Articles were reviewed.**

ARTICLE (18): AMENDMENT TO THE GENERAL BYLAWS- ADDITION OF EARTH FILLING BYLAW

To see if the Town will vote to amended the General Bylaws and insert a new bylaw titled "Earth Filling."
Petitioner



PLANNING BOARD MEETING MINUTES
October 19, 2016 continued

They also stated that if Article 10 passes they will not put forth Article 18. If it does not pass, they will put forth Article 18.

****MOTION II: to vote unfavorable action on Article 11 made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 3-0-2; Mr. Leonardo & Mr. Pavao abstained.**

***ARTICLE (10): AMEND CHAPTER 181, ARTICLE 1 OF THE UXBRIDGE GENERAL BYLAWS**

To see if the Town will vote to amend Chapter 181, Article 1 of the Uxbridge General Bylaws as proposed.

SPONSOR: Board of Selectman

Discussion was had regarding the commentary of the 2 versions of the Article. Dr. Tapscott stated that the "hybrid" version with the blue modifications was the one the other Boards had voted favorable action on. Mr. Desruisseaux asked why the Board of Selectman put forth an Article essentially the same as a Citizen's Petition (Article 18). Dr. Tapscott stated after presenting the Citizen's petition to the Board of Selectman, the Board of Selectmen then, within a few days, worked on a stronger version of the bylaw, working in conjunction with Dr. Tapscott, Mr. Frazier, the BOS Chair, and the Town Manager's office. Mr. Desruisseaux asked why the Board of Selectmen weren't present to speak to the Planning Board regarding an Article that they drafted and why the two versions. Mr. Piccirillo asked which version the Finance Committee had voted on. Mr. Genereux stated the Board of Selectman initially voted on the original version but then re-voted, when the amended version was completed.

Mr. Piccirillo asked which Bylaw would trump which bylaw if they were in conflict. Mr. Genereux stated that a Zoning Bylaw would trump a General Bylaw but generally they should work in conjunction together. Mr. Leonardo stated they worked for 2 years on the Excavation Bylaw and wanting to be fair to the public and to the landowners. Mr. Leonardo discussed the soil importation portion of the bylaw. He said the original concept of the (current) excavation bylaw (that the PB had worked on) was to limit the impact on the roads and to the land and that the proposed bylaw did the exact opposite and the Town would be getting nothing for it. He further stated that he didn't know why the Town wasn't getting anything for it and it was opening up a lot of things that could be brought into Town. Mr. Smith stated he did not want to see the Town become a dump site and that with the bylaw he felt that was inviting it as there were a lot of ways around regulations. He stated he felt public sentiment at a lot meetings that they did not want to see this kind of dirty fill coming in.

Mr. Smith and Mr. Leonardo stated they didn't believe it was "good stuff" coming in because you have to pay for clean fill and in this case, the exporters of the soil were paying someone to take it away (rather than charging for the soil.) Mr. Leonardo expressed his desire to see the Town getting something for the soil coming in/tipping fees. He emphasized that he wanted something in the regulations that ensured that a Town hired engineer was monitoring the soils and that the projects were bonded to avoid a potential disaster later on. Mr. Desruisseaux asked who determines who hires the engineer? Mr. Genereux stated it would be the Planning Board.

Mr. Genereux stated exportation and importation would be two different processes. He stated that the DEP was still working on a process for the ACO, based on a public hearing process which would be run through the Planning Board, and that the Board of Selectman would be the issuing Board for the letter of support. Mr. Piccirillo questioned the process and Mr. Genereux stated it would be up to DEP as to whether to accept the PB's determination vs the BOS's letter. Mr. Desruisseaux stated it was not an allowed use because if it's not a defined allowed use nor a prohibited use in the Zoning Bylaws than it's not allowed without a Special Permit from the ZBA. Dr. Tapscott and Mr. Genereux stated that the ACO requires "support from the Town" not a permit from the Planning Board. Mr. Piccirillo asked about the AG's comments and the consistency issue since the existing bylaw states there is no dumping. If the ACO does not meet the spirit of the bylaw, it will not be issued by DEP according to Dr. Tapscott. Mr. Piccirillo felt the letter of support should come from the PB not the BOS. He expressed concerns the two Board's opinions conflicting.

Mr. Genereux and Dr. Tapscott stated that they may "tweak" the language for the Fall Town Meeting if it passes. It was also stated that the intent in the Spring would be to remove the "no dumping" bylaw.



**PLANNING BOARD MEETING MINUTES
October 19, 2016 continued**

Mr. Desruisseaux stated the PB should have been included in the process as the PB worked hard to draft the original Excavation bylaw.

The floor was open to the Public. Mr. Patrick Hannon spoke to the Planning Board regarding soil importation. He stated with DEP "public participation" was required for an ACO, not "public approval. Mr. Piccirillo stated that he oversight of testing was lax, that it wasn't GPS traceable, who has access to the data. Mr. Hannon stated there was a defect in the bylaw in that LSP can only certify 21E sites. He stated that a BOS letter of support was not needed.

Mr. Genereux stated the BOS was not asked to appear before the PB. Mr. Desruisseaux expressed that normally a petitioner will be in attendance to present their Article.

Mr. Piccirillo made a Motion to vote favorable action on Article 10. The Motion was not seconded.

Mr. Desruisseaux stated he had concerns and extreme issues with the Article including creating a conflicting (importation) bylaw as well as the existing excavation bylaw. Mr. Smith stated he was a conscientious objector of bringing the fill in since he felt it was the Town sentiment that they didn't want that to happen. Mr. Desruisseaux stated his concerns that the Planning Board would be put in a bad situation since they could be sued no matter how they ruled (on excavation/importation projects) due to the conflicting bylaw that would be created. Mr. Desruisseaux expressed his appreciation for the work that went into the bylaw but had issue with it from a legal and Board perspective.

Mr. Leonardo made a Motion to vote favorable action on Article 10. The Motion was not seconded.

****MOTION II: to vote unfavorable action on Article 10 made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 3-0-2; Mr. Pavao and Mr. Leonardo abstained.**

ARTICLE (20): AMENDMENT TO THE ZONING BYLAWS-AMEND WAUCANTUCK MILL ADAPTIVE REUSE OVERLAY DISTRICT

To see if the Town will vote to accept the amending of the Zoning Bylaw, Chapter 400, Article VIII, §400-40 Waukegan Mill Adaptive Reuse Overlay District by adding parcels 2413, 2475, and the parcel labelled 'Nicholas Way,' on all Assessor's Map 20.

Petitioner

Attorney Knapik and Mr. O'Connell of Andrews Engineering spoke to the Board regarding Article 20. Attorney Knapik stated the Article seeks to enlarge the Overlay district to encourage residential, commercial and mixed development and that an amendment would be made on the floor at Town Meeting to exclude the Lamire single family dwelling currently in use. He stated the inclusion of additional area would be a suitable for development due to the location and would be the best use of the property; retail and housing.

Mr. O'Connell underscored the intent for a mixed use development in the Resident B district. No one from the public wished to speak to the Article.

****MOTION II: to vote favorable action on Article 20 made by Mr. Leonardo. Motion was seconded by Mr. Desruisseaux. Motion carried 5-0-0.**

ARTICLE (11): AMEND THE ZONING BYLAWS, ARTICLE X, DEFINITIONS AND APPENDIX A, TABLE OF USE REGULATIONS

To see if the Town will vote to:

Item 1



**PLANNING BOARD MEETING MINUTES
October 19, 2016 continued**

Amend the Zoning Bylaws, Article X, Definitions, by inserting the following:

Soil Importation: Refers to the trucking of soils, loam, sand, gravel or other fill material pursuant to Mass DEP 310 CMR 40.0032(3) and Mass DEP Comm 15-01 from unregulated sites and tested soils from regulated sites. Tested soils that exceed state and federal guidelines for toxins are not included within this definition, nor allowed within the Town of Uxbridge.

Item 2

Amend the Zoning Bylaws, Appendix A, Table of Use Regulations, Section #, Industrial Uses, by inserting:

	R-A	R-B	R-C	A	B	I
Soil Importation	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA

Or take any action relative thereto.

SPONSOR: Board of Selectman

The Board briefly discussed the Article. No one was present to discuss the Article and no one from the Public wished to speak.

****MOTION II: to vote unfavorable action on Article 11 made by Mr. Piccirillo. Motion was seconded by Mr. Desruisseaux. Motion carried 4-0-1; Mr. Leonardo abstained.**

ARTICLE (21): REZONING OF PARCELS FROM INDUSTRIAL TO AGRICULTURAL

To see if the Town will vote to accept the re-zoning of parcels 265, 1141, 2726, 3658, 4433, 1073, 1814, 1056, 1054, & 1074 as shown on the Uxbridge Assessor's Maps' 40 & 45 from the Industrial Zone to the Agricultural Zone.

SPONSOR: Citizen's Petition

The owner stated there were 4 residents/4 different owners. He stated the industrial zone was not consistent with the surrounding residential zones. Mr. Desruisseaux stated his agreement that it was not particularly suitable for industrial use. The owner stated the zoning was affecting his ability to remortgage since the Bank stated they felt it might be difficult to sell an agriculturally used piece of land that was zoned for industrial. The owner of the property runs Arrowhead Acres; a Christmas tree farm.

No one from the Public wished to speak.

****MOTION II: to vote favorable action on Article 21 made by Mr. Leonardo. Motion was seconded by Mr. Desruisseaux. Motion carried 5-0-0.**

ARTICLE (14): AMEND THE ZONING BYLAWS, TABLE OF DIMENSIONAL REQUIREMENTS, FOOTNOTE #4

Striking footnote #4 "Said 300 feet of frontage is required on both streets of a corner lot in the Agricultural zoning district," from the Uxbridge Zoning Bylaws, Table of Dimensional Requirements.

SPONSOR: Planning Board

The Chair stated it was the only zone that had this requirement and the Board felt it was discriminatory. No one from the Public wished to speak.

****MOTION II: to vote favorable action on Article 14 made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0.**



PLANNING BOARD MEETING MINUTES
October 19, 2016 continued

****MOTION I: to close the Public Hearing on the Warrant Articles made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo. Motion carried 5-0-0.**

III. BUSINESS

Mr. Smith recused himself.

1. FY17-10 Definitive Subdivision – The owners of record, **Mark W. & Debra A. Dunleavy**, and applicant, **TTK Real Estate, LLC**, are seeking approval for a Definitive Subdivision to construct fourteen (14) single family residential building lots in addition to the previously approved eleven (11) lots. Property is located on **Tucker Hill Estates, Phase II, 90 Richardson St, Uxbridge, MA**. The property is shown on the Town of Uxbridge Assessor's Map 24B & 29, Parcel 3871 & A.P.O.1355. The title to said land is recorded in the Worcester District Registry of Deeds Book 46106 & 54245, Page 385 & 268. Property is located in a Residential-C zoning district.

a. Decision draft

The Board reviewed the three requested waivers collectively and the Decision draft.

MOTION I: to accept the three waivers for Tucker Hill (Estates) made by Mr. Leonardo. Motion was seconded by Mr. Piccirillo. Motion carried 4-0-0.

MOTION II: to endorse the Decision as written for Tucker Hill Estates Phase II known as Maslow's Way made by Mr. Leonardo. Motion was seconded by Mr. Piccirillo. Motion carried 4-0-0.

The Board took a break (but not recess the meeting) and then signed the Mylars for Tucker Hill Estates, Phase II.

Mr. Smith returned to the meeting.

IV. MINUTES/MAIL/INVOICES

1. 08/10/16 Meeting Minutes –passed over
2. 08/24/16 Meeting Minutes –passed over
3. 09/14/16 Meeting Minutes –passed over
4. 09/28/16 Meeting Minutes –passed over
5. 10/12/16 Meeting Minutes –passed over

V. ANY OTHER BUSINESS, which may lawfully come before the Board.

Mr. Desruisseaux discussed wanting a list of all known existing gravel operations and a review of the permit status of any active gravel operations. Laurel St/Hathaway pit has an active current permit. Gravel operation on South Street submitted an incomplete application. Gravel operation on Millville Road, no application had been received and the current permit is expired.

Mr. Piccirillo read quotes from the public hearing for the ZBA special permit decision on for the Millville gravel operation into record. Mr. Piccirillo stated that the export and import of material was discussed and quoted the ZBA Chair as saying, *"I think that as part of every gravel removal project there's the finished product and you're talking about the finished product. Your permit is requesting the gravel removal and as part of that you're bringing in other material to create the finished product which will be the finished grade at the end."* Mr. Piccirillo stated that Mr. Hannon replied *"correct"* to which the ZBA Chair added *"so that's sort of accessory to removal; the fact that you're bringing material in."* Mr. Piccirillo stated that Attorney Henry Lane, who was representing Agritech and Mr. Hannon, stated, *"one of the requirements, of course, of the earth removal permit, is that we have to restore the site. obviously this was largely ignored and we will*



**PLANNING BOARD MEETING MINUTES
October 19, 2016 continued**

address the problem and we will restore it to the appropriate condition." Mr. Piccirillo stated that they were tying the import and export to the permit.

Mr. Piccirillo stated the gravel permit for Millville Rd is currently expired and the current bylaw states there is no importation allowed. He stated since it was a general bylaw it was, according the attorney general, active to the evening it was voted in.

Discussion was had regarding enforcement authority, reclamation and gravel removal, importation of materials for commercial gain vs reclamation, wanting to be consistent in how the PB deals with expired permits, illegality of commercial importation, Special Permit from ZBA no longer being active since gravel permit was allowed to expire, no information received from Town Counsel, the AG letter regarding the soil importation bylaw, no ACO, lack of sufficient information regarding the operation (importation and exportation) on the property, a possible cease and desist, a letter from the Board stating it was illegal to import and that the permit was expired, prohibited uses, and enforcement options.

The Board decided to issue a letter from the PB notifying the owner, that their gravel permit is expired, ZBA permit no longer valid and the Bylaw stating no importation, Cc to ZBA, TM, Bldg. Inspector/ZEO, and DPW.

VI. ADJOURNMENT: NEXT PLANNING BOARD MEETING, WEDNESDAY, November 9, 2016.

**MOTION I: to adjourn made by Mr. Desruisseaux. Motion was seconded by Mr. Piccirillo.
Motion carried 5-0-0.**

Respectfully submitted,

Lynn Marchand
Land Use Administrative Assistant

Planning Board Signatures

James Smith, Chairman

Joseph Leonardo, Member

Barry Desruisseaux, Vice-Chair

Justin Piccirillo, Member

Peter Pavao, Clerk

Date