

Planning Board Minutes
October 17, 2017

Present: Chairman Pitney, Vice-Chairman Fletcher, Member Slosek, Member Raftery, Member Sauer, Member Pearce, and Jennifer Carmichael Secretary. Absent: Member Talbot
Also at the meeting were: Christine Rasmussen, Sarah Gapinski, Jim Seidl, Peter Socha, Phil Brault, Adrian Nial, Jeffrey Cook, Dennis Egan, John Benzinger, Sean Ferry, Anita Schwerner, Ned Baldwin.

Chairman Pitney opened the meeting and asked for a motion to approve the September 19th minutes. Member Slosek moved to approve the minutes and Member Fletcher seconded, the vote was: Chairman Pitney – Yes, Member Fletcher – Yes, Member Slosek – Yes, Member Raftery – Yes, Member Sauer – Yes, Member Pearce – Yes, the motion carried.

A Special Permit was presented by Sarah Gabinski for Laura Richman at 3 Oak Street. They were requesting the removal of a ledge in order to expand the driveway. The driveway would be 20 feet wide and have a 3 to 4-foot shoulder. There is one tree that is 10 to 12 inches that will come down. The work is expected to be completed in about 2 weeks and hope to do the work this fall. Regarding earth removal bylaw, the removal of ledge will be between 40 - 42 cubic yards. Member Pitney pointed out prohibited activities, 6.5.5, and read the third bullet point, "... the mining or off-site removal of topsoil, subsoil, clay, peat, gravel, sand, shale or other similar materials." He felt whatever was done to the ledge/rock, it could not leave the site. Sarah felt they were not mining and there was no available place on site to put the ledge. Member Fletcher reiterated the part of the bylaw that said, "the mining or offsite removal". Member Pitney, one of the issues with the LPOD is you can bring materials on to the site but you cannot necessarily take materials off site. Sarah explained when they did an addition in 2009, in digging the foundation they did not have a problem moving earth offsite. Sarah explained that if required to leave it on site, it would cause a large pile of rock/ledge to be visible from the lake. Member Slosek questioned if they were mining or removing below the proposed grade of the driveway. Sarah explained they would be digging 12 inches below grade just to install the driveway gravel. They will not do regrading of the existing driveway. Member Fletcher asked if they were excavating down 12 inches, what was the plan for that material. Sarah explained the remaining material would leave the site, they are not excavating the whole driveway the existing driveway will remain in place as is. Twelve inches of gravel will be brought into the new driveway location. Member Pearce felt that it still had to go in front of the Selectmen although it was less than 50 cubic yards to be removed. Member Slosek felt the Board was worried about compensatory storage, when there would be more fill put into an area of the LPOD and make note that in the area everything is above grade and it would actually remove which would help any situation that way, He understands the written rule but is making note of the conditions there. Lovely landscaped property but if we start to disregard our bylaw it is not a great precedence. Member Fletcher made the comment that the property had lovely landscaping etc., expressed concern about precedent and suggested the engineer contact her client for a possible solution or onsite storage of excavated materials. Chairman Pitney asked for a motion to continue the public hearing, Member Fletcher motioned to continue and Member Pearce seconded, the vote was: Chairman Pitney – Yes, Member Fletcher – Yes, Member Slosek – Yes, Member Raftery – Yes,

Member Sauer – Yes, Member Pearce – Yes, the motion carried. Sarah asked to be put on the November 7th meeting.

Next was the earth removal permit at Tanglewood, Member Fletcher recused herself, she is not an abutter but a neighbor. Attorney Dennis Egan explained the project for the Boston Symphony Orchestra. There was confusion with the zoning bylaw, 4.10 Table of Use, Section B. Accessory Uses, #6 regarding earth removal and erection of a building when a permit has been issued. Town Council opined that Article XII Earth Removal permit is required for anything over 50 cubic yards. The cease and desist order was received on 9/26 and on 9/29 a permit application was submitted. Kate Fletcher ask about the soil being taken off site. Dennis explained because of the soil characteristics containing a lot of clay good topsoil will be brought on site for the final grading and landscaping plan that was submitted with the storm water management and erosion control plan that the Board approved back in April. Member Pitney suggested allowing the Board to discuss and ask questions first before the members of the audience. Member Sauer asked where the soil was moved to and why are you bringing soil in. Dennis explained it went to South Lee; the characteristics of the soil contain a lot of clay and is not conducive to final grading, nor it is conducive to their horticultural plan. She asked about an article in the newspaper regarding contaminated soil on the site. Someone from Tanglewood explained that there is a small area in the orchard where the soil contains pesticides. They are waiting for the Federal report to come back. There will be a site approved by DEP to take it. Member Pitney felt that Article XII under the general Town Bylaws is really there for agricultural purposes, to prohibit stripping off topsoil to start a gravel bed there. Tanglewood is taking soil away and bringing back topsoil. Member Pearce asked if this changed the storm-water management calculations. Dennis explained it was in accordance with the storm water management and erosion control plan that had been presented at an earlier meeting. The plan took into consideration the removal of the present earth material and replacement of topsoil. Kate Fletcher, in the audience, mentioned, under the earth removal bylaw that no excavation will be closer than 100 feet of any property lines. She understood they had already done the excavating, but wanted to know the distance from where the excavating was done to the property line. Member Pearce read the passage from the bylaw where excavating closer than 100 feet was prohibited. Dennis explained, there was a misinterpretation of the bylaw, otherwise the permit would have been applied for and they are coming back to apply for a permit. Kate felt a concern regarding how this was ushered in, you had a select board member who seemingly ushered this thing in with no questions or with some sort of agreement; with no conversation of the surrounding area. Dennis felt it was properly noticed under the Massachusetts General Law, it is a by right use. It was correctly noted and the bylaw does not say you have to do anything more. Kate felt that might be but it has a significant impact. Kate mentioned that the audience did not know the distance to the property line from where the excavation is being done. Dennis indicated that he did not know what it was. Dennis explained this board and other boards are not a penal board and it is not retroactive and because a misinterpretation was done does not mean there should be a penalty for that. Kate wondered why they felt they were being penalized. Dennis did not understand how her

question applied to why they are here tonight. Kate explained they were asking for a permit and we have wording here and felt it was a fair enough question to understand the excavation site distance to the property line. Dennis explained that the Select Board is the permit granting authority and they were here because of the jurisdiction the Planning Board has under Article XXVI. Kate understood it was a done deal as it has already happened, in looking at the application she understands that this is a large site and a lot going on. One thing Kate would ask the Planning Board to consider is given the context of how this came about felt it was reasonable because there has been a lot of clear cutting along the corner of Hawthorne Street and Hawthorne Road which has opened up the area and the working hours here from 7 AM to 3:30 PM and being a residential neighborhood with elderly people living along that whole stretch of road the working hours of 8:30 would be a much better time to start. When Kate asked for a later start time for hauling dirt given the context of a residential neighborhood, Marie advocated for the 7a.m. start and Kate commented that it is a residential zone. Jennifer also urged a 7 a.m. start using Church Street construction as an example, Kate's comment was that that did not make it right. Member Pearce ask for a clarification in the trucking route and being prohibited from traveling on Hawthorne Street. Kate mentioned that was on their request. It was explained that one is Hawthorne Street and the other is Hawthorne Road which they can travel on. Kate asked about landscaping and mitigating the buffer along the street. Adrian Nial explained plantings would be rhododendrons, birch trees and ferns for a natural look along the slope edge, the larger deciduous trees will be preserved along with the elms and sugar maples. Then around the buildings in the campus core it will be very similar as to what you see elsewhere. Kate mentioned she is more concerned with the impact of the screening that has been cut and if that opens up the corridor for a lot of noise. Adrian explained there would be a few evergreens, mostly rhododendrons and a birch grove though vegetation does not do much for noise mitigation. Chairman Pitney asked for a recommendation to give the Selectmen as to whether they approve a permit or not. Member Pearce pointed out the project on the application continued until December 2018. She felt that was a long period of time for residents to endure the constant construction work and asked that a shorter time frame be looked at. Member Pearce made a motion that the Selectmen approve the permit subject to a couple of recommended conditions: 1) the length of permit be modified to reflect when the actual activities are going to take place, rather than a long 15-month period. All excavation be done by the middle of December and return of the soil will be in the spring and fall. She also suggested an adjustment to the working hours, as 7 – 3:30 seems a bit much in a residential neighborhood; an 8:30 start would be better. Member Slosek mentioned the construction season is very short and to cut an hour and a half off puts an undue burden on what they are trying to do. There was much discussion on the work hours in a residential neighborhood. Member Pitney suggested the recommendation to the Selectmen include a reduction in the work hours. The motion was revised by member Pearce to recommend approval of the permit requesting that they review the time frame and working hours, Member Sauer seconded and the vote was: Chairman Pitney –

Yes, Member Slosek – Yes, Member Raftery – Yes, Member Sauer – Yes, Member Pearce – Yes, the motion carried.

Next was Form A for Southmayd Farms at 2 Glendale Middle Road, zoned R-1, by Jim Seidl from SK Design Group. Member Sauer recused herself as she is a tenant of the owner of Southmayd Farms. They would like to divide the property into two lots. The lot width and frontage were met for a lot zoned R-1. Member Pitney asked for a motion to accept the Form A, Member Pearce motioned this and Member Fletcher seconded and the vote was: Chairman Pitney – Yes, Member Fletcher – Yes, Member Slosek – Yes, Member Raftery – Yes, Member Pearce – Yes, the motion carried.

Member Raftery spoke regarding Citizen Planner Training that the State provides the one in Pittsfield is on November 2nd and November 9th this is part 2 of the training from last year it will be held from 6 – 8. The cost is \$30 per person.

Member Fletcher reminded all present that the zoning review committee's next meeting would be October 23rd at 5:30.

Chairman Pitney suggested Member Fletcher go to the hearing the selectmen will hold if she does not feel Tanglewood is dealing with the buffering adequately. Member Fletcher felt during the recent heavy rain they did not have hay waddles in place, it was clearly inadequate and there was incredible run off which could go down to the lake; we are already paying to have the lake dredged. Next time the board has a storm water and erosion control management application, they should take advantage of the provision and hire someone to advocate on behalf of the Town. Storm water and erosion control is logically more of a Conservation thing, though Planning Board does the LPOD. Member Fletcher asked Member Pearce what she thought. Member Pitney felt it was a great topic for the zoning bylaw review, to see if it is in the right place. Earth removal was discussed, being in the Town and Zoning bylaws, Member Slosek mentioned looking back at the rock removal for 3 Oak Street if the intent of the bylaw was to control a potential gravel bed from starting then he could understand that you don't want any material leaving the site; if that is the intent. If it is just to make the driveway bigger, is that a real problem. Member Pitney mentioned that the board can only work with what is presented

Chairman Pitney asked for a motion to adjourn, Member Fletcher moved to adjourn and Member Slosek seconded the vote was Chairman Pitney – Yes, Member Fletcher – Yes, Member Slosek – Yes, Member Raftery – Yes, Member Pearce – Yes, Member Sauer – Yes, the motion carried.

Respectfully submitted by,

Jennifer Carmichael, Secretary