

**Planning Board and Zoning Board of Appeals - Joint meeting  
Lakeville, Massachusetts  
Minutes of Meeting  
July 28, 2022**

On July 28, 2022, the Planning Board held a joint meeting at the Lakeville Public Library. The meeting was called to order by Chairman Knox at 7:00 p.m.

**ZBA Members present:**

John Olivieri, Jr., Chair; Jeffrey Youngquist, Vice-Chair; Gerald Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Campeau, Member; Christopher Sheedy, Associate

**Planning Board Members present:**

Mark Knox, Chair; Peter Conroy, Vice-Chair; Nora Cline, Michele MacEachern

**Others attending:**

Marc Resnick, Town Planner

**TAC VEGA MA Owner, LLC hearing, continued – 310 Kenneth W. Welch Drive**

Mr. Olivieri opened the continued TAC VEGA MA Owner hearing at 7:00. He advised they were now holding a joint meeting with the Planning Board in regards to this hearing and the request for a Variance for lot coverage.

The Planning Board meeting was then called to order by Chairman Knox at 7:00 p.m. Members in attendance were Mark Knox, Chair; Peter Conroy, Vice-Chair; Nora Cline and Michele MacEachern.

Mr. Terrence Russell from Epstein, located at 600 West Fulton Street in Chicago, was present. He represented Vega Strategic. Ms. Natalie Brown was the landscape architect from Brown and Sardina. Mr. Knox said they had reviewed the plan. His biggest concern was they had received a water summary, and it calls out the occupants of the building Northeast Alternatives and Jushi both anticipate approximately 150 employees at their peak shift which would be about 250 vehicles. Mr. Russell replied with handicap parking they have provided about 212 spaces. That is all they can get on the site and still be sensitive to the site coverage. Mr. Knox said that did not seem like it would rectify the offsite parking that they still see. The concern has been raised that what is being proposed does not have a plan for the additional 20-30 cars on day one. Mr. Russell replied there is discussion on remote parking and being able to shuttle employees but at this point nothing is definitive.

Mr. Russell said they have done the best they can to maximize the site and still allow some landscape area in the front. Mr. Knox asked if this has been presented to the Board of Health to see if the current septic system would handle the increase in the number of employees and flow.

Mr. Russell said he could only speak to the Jushi portion. Right now, their waste goes to a tank that is pumped. From what they can tell from their investigations, they are not using the septic field that is under the front drive. Northeast Alternatives has a septic system, but he does not know what has happened with it. Mr. Knox said they would need something from Board of Health. Mr. Knox noted that this plan hasn't been sent out for peer review. Mr. Resnick added they will have to send it out to Environmental Partners to review the drainage report. The Board of Selectmen have also requested certain information on water usage because if you calculate the maximum capacity of all the usage, it approaches the Town's total allocation from Taunton. He noted the two Towns have agreed to work together to try and figure out exactly what the total usage is; what has been allocated and then work toward adjusting the agreement.

Mr. Knox asked if more space could be found on the site for parking if additional relief was granted. Mr. Russell replied they would have to replace some of the wetlands in order to do that. They are right up against the 50-foot buffer and to be able to maintain that, they would have to replace 3,000 square feet, a two-for-one replacement. If they had to replace it on site, he thought they would run out of space. The grade in the back also drops off and goes into a flood zone area. Mr. Russell noted that with the available space they have this plan is the best they can do. Mr. Knox stated he agreed with that, but would like reassurance that if the proposed plan and Variance are approved that the parking across the street on Town property would not continue. Ms. Cline added that there is an issue the company can address. She observed cars parking on the street when there were parking spaces available. Mr. Russell said that he had also observed that.

Mr. Olivieri said the 3% Variance for lot coverage that is requested sounds like it will reduce the problem but not get rid of it. He would ask what the building owner or tenants will put in place to guarantee that the issue is not going to continue to happen. He felt that someone had to come back to the Planning Board to address that. If the Zoning Board was so inclined, they could potentially move forward to entertain the request for a Variance. Mr. Russell said he will bring this back to the building owner and see if they can come up with some alternative ideas such as shuttle buses from other parking lots.

Mr. Youngquist then made a motion, seconded by Mr. Noble, to continue the TAC VEGA MA Owner, LLC hearing, until August 18, 2022, at 7:00 p.m. The **vote was unanimous for.**

Mr. Russell noted that he would be unable to get this all resolved by August 11<sup>th</sup>, the date of the next Planning Board meeting. He felt that August 25<sup>th</sup> would be a more doable date from his end. They will need to rethink this, and if it did require a more significant site coverage would that be something the Board would consider, possibly up to 80% if they could get it to work? Mr. Knox replied to do the math on what they could achieve and see what works. He didn't think they should be coming back to the Zoning Board multiple times for relief, but rather they should do this once and get it right.

Mr. Olivieri then advised if the applicant would not be ready for their next meeting, they would have to push them out until their September meeting. Mr. Youngquist then rescinded his original motion and made a motion to continue the TAC VEGA MA Owner, LLC hearing, until September 15, 2022, at 7:00 p.m. It was seconded by Mr. Noble. The **vote was unanimous for.**

### **Zoning Board of Appeals Adjournment**

Mr. Youngquist made a motion, seconded by Mr. Noble, to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 7:28.

**The adjournment was for the Zoning Board of Appeals only. The Planning Board then continued with its meeting.**

Ms. Hailey Brown from Brown Sardina then began the presentation of the landscape plan. She advised they have worked with the owner and the Town and walked through the site. They have identified certain trees and species that are to be removed. They are either in poor condition or are invasive species. They are including six different species of deciduous trees with evergreen trees around the utilities for screening. They will also put in some shrub areas, perennial plant beds, and grasses for color throughout the different seasons. As you go into the parking area, they will plant at least four more new trees and keep the existing, with an additional perennial plant bed with shrubs and other plants.

Mr. Knox said his only concern would be is if some of the trees would affect the line of sight for cars entering and exiting the parking lot. They will need to make sure that whatever plantings are there allow for a clear line of sight, and there is safe exit and entrance into the parking lot. Ms. Brown then distributed a plantings book to the Board. She noted that the species they have chosen would not require any irrigation. The Board had no additional comments on the Landscaping Plan.

Mr. Russell then noted the Board had previously approved a temporary parking plan that was about to expire in mid-August. Could they extend that? Mr. Knox then made a motion, seconded by Ms. Cline, to continue this hearing until August 25, 2022, at 7:00 p.m. and to continue the use of the temporary parking as needed until this matter is resolved. The **vote** was **unanimous for**.

### **Site Plan Review – 156 Rhode Island Road, continued** – T. Sikorski Realty, LLC – applicant

The applicant had requested a continuance of this hearing until September. Mr. Knox made a motion, seconded by Mr. Conroy, to continue the Site Plan Review for 156 Rhode Island Road until September 8, 2022, at 7:00 p.m. The **vote** was **unanimous for**.

### **124, 126, & 128 Crooked Lane** – Review project status

Mr. Knox said he believed a letter had been sent to the owners from the Planning Department regarding the loam, seed, and finish construction of the drainage basin that is between two of the lots. Mr. Karl Stenstrom of 126 Crooked Lane and Mr. Matthew Staren of 128 Crooked Lane were present. Mr. Stenstrom said the drainage basin would be between their two properties. He had just finished framing his house. It would not be completed by September which had been indicated in the letter, but more realistically it would be late fall or early winter. The occupancy permit was contingent upon the drainage basin being completed.

Mr. Knox asked if the drainage basin could be loamed and seeded. Mr. Jarred Crossly from Lot 1 then advised they had put up a bond that cancelled that out if they did not have the basin completed by a certain time. Mr. Resnick advised the letter had gone out based upon where they were at a few weeks ago. If they were moving at a quick pace, it could be done by the end of September, which would be the best time to plant. He advised that it was Craig Crossley that had received the approval. He thought he would be coordinating the grading, but the situation was a little different than envisioned as they had purchased the lots. The Board was trying to ensure that this occurs in a timely manner.

Mr. Knox asked if they would anticipate loam and seed for next spring. Mr. Staren replied right now the houses are the priority. Concurrently, they would try to loam and seed at the same time as stated in that letter. Mr. Resnick noted the basin would have to be reshaped from what is presently there. Mr. Knox then thanked them for coming in. He suggested they return in November and update the Board at that time.

#### **Discussion regarding the Housing Production Plan**

Mr. Resnick advised at the last meeting he had distributed a copy of a survey from the Town of Mansfield. He would like them to go through it and see if there are questions that they would like removed or other questions they would like added. He would like to have this survey open for the month of September. That way when SRPEDD comes to the Board in October to give a presentation, they will have the results. They can explain what they found out and where they are with producing the plan, etc. He then distributed the survey to the Board. Mr. Knox said he would like to return to this later in the meeting.

#### **Discussion and action on possible Articles for fall Town Meeting – Alternate member**

Mr. Knox read the proposed amendment into the record. Mr. Conroy asked if it should be limited to a maximum of two one-year consecutive appointments. Then that person might want to run for the Board and another person have an opportunity to serve. Mr. Resnick stated that if present members continue to run, you would have the alternate member running against a member which could set up an unnecessary conflict. Ms. Cline agreed with having a term limit. Ms. MacEachern had a concern that the Planning Board was elected, but this position would be appointed. There might be an appearance of some sort of favoritism.

Mr. Knox noted that the Planning Board does not require a super majority unless it is a Special Permit and a simple majority on votes other than that. Ms. MacEachern said she thought this had been addressed through the Mullin Rule. Mr. Knox said it does address it if someone misses a meeting for a Special Permit, but not for a conflict or if someone misses multiple meetings. Mr. Knox said he did not think it would harm the Board to have an alternate member, but he understood the concern. After further discussion, Mr. Resnick said if the Board was in favor, he would like a vote so that he could then send this to Town Counsel for review. Ms. Cline then made a motion, seconded by Mr. Conroy, to approve sending to Town Counsel for review the amendment for adding an associate member to the Planning Board as drafted. The vote was **unanimous for**.

**Discussion and action on possible Articles for fall Town Meeting – Adoption of the Mullin Rule, Chapter 39, Section 23D**

Mr. Resnick stated that typically Towns adopt the provisions of Chapter 39, Section 23D, as opposed to writing a bylaw. He would like to send a memo to some of the other Boards and Commissions regarding this and for informational purposes. Mr. Resnick said once that was done, he could draft an Article for the adoption of the Mullin Rule. No action was needed by the Board at this time.

**Public Hearing (8:00 p.m.) To amend the Zoning By-Law Section 7.9, Subsections 7.9.1-7.9.6 with respect to removing in its entirety the Development Opportunities District Bylaw.**

Mr. Knox read the legal ad into the record. He then made a motion, seconded by Mr. Conroy to open the Public Hearing. The **vote was unanimous for**. He asked if there was any discussion from members. There was none. He then opened the hearing to public comment. Mr. Dick Scott of 9 Rush Pond Road said that he was very happy to see the Board taking this action. He asked if this were to go to Town Meeting would it be able to be amended there to allow the intent of this to not take place. For example, could it be amended or tabled so this would not actually happen. Mr. Resnick replied that Town Meeting could take any action relative to the Article as long as it related to the actual Article that was submitted. Mr. Knox stated that would be without any significant change to the intent of the Article. Mr. Resnick added he did not think that someone could make a motion to keep the DOD Article but modify it in a certain way because that would not be the intent. That would be a more detailed question for Town Counsel.

Ms. Noelle Rilleau of 22 Reservoir Avenue said that she hoped this did not become contentious again. People have spoken out very strongly about this, and the people want it gone. It had been stated if there is any Overlay being put on Lakeville properties, it should be the Mass Water Resources Protection Act. Mr. Knox also wanted to state for the record a clarification. It was said the Planning Board took no action for years. There had been a Citizens petition to have this removed during the Hospital project hearings. When that was submitted to the Town Clerk, there were two plans filed to freeze the zoning. The public hearing was held within 21 days. The Board knew if they did not act it would nullify the proposal of the removal of the DO district. These plans were then withdrawn. Within five days of the motion to remove the DO District again this year, the Country Club plan was submitted again.

Mr. Knox then made a motion, seconded by Ms. Cline, to remove the Development Opportunities District as drafted in the public hearing notice. Mr. Resnick noted the motion was to make a recommendation to Town Meeting that the amendment be approved or not approved. Mr. Knox amended his motion to recommend approval of this Article to the next Town Meeting. It was seconded by Ms. MacEachern. The **vote was unanimous for**.

Ms. Kelly Kutchmanich of 93 Crooked Lane asked about the statement of the Planning Board trying to freeze the zoning. Mr. Knox replied that typically when something is seen such as the citizens petition submittal to remove the DO District, a plan will be submitted in order to freeze the zoning. This locks that applicant into the existing zoning prior to the Town Meeting that may or may not approve that petition. The intent of those two plans was to freeze the zoning so they could still be developed under the DO District if the removal was approved at Town Meeting. Ms.

Susan Spieler of 10 Valley Road asked if this was approved at Town Meeting, what would the effective date be. Mr. Resnick replied it was effective at the time of the vote. However, there is a gray area between that time and the approval of the Attorney General where it is considered you act at your own risk.

Mr. Knox made a motion, seconded by Mr. Conroy to close the public hearing. The vote was unanimous for.

#### **Discussion and action on possible Articles for fall Town Meeting – Open Space Residential Design (OSRD)**

Mr. Resnick distributed a modified version of the proposed bylaw to the Board. It was noted that the Board of Health had requested the Planning Board attend their next meeting to discuss some of the concerns the Board of Health had with the OSRD. That meeting would be on August 3<sup>rd</sup> at 6:00 p.m. Mr. Resnick then discussed some of the following changes that he wanted to point out could be problematic.

The pre-application meeting is intended to be just that. The addition of a concept plan and yield plan, architectural landscape plans, and the addition of many other requirements is far and above what you would expect to do under a general discussion with a developer before he decides to engage an engineer to develop a full set of drawings. Mr. Knox recommended a redraft of this section with his suggestions to simplify that pre-application meeting. Mr. Resnick said this would be in the next step which would be in the preliminary subdivision process.

Mr. Resnick stated that the problem with the yield plan is the way this is set up, it is not necessary. They are restricting a minimum lot size of 30,000 square feet which limits it to a three-bedroom system. A suggestion was to include a 55+ component where townhouses would be allowed, and you could do a yield plan as part of that requirement. The Board could design it however they felt most comfortable. Ms. MacEachern clarified that the yield plan had come out of a discussion with the Board of Health. It ensures that a large piece of property that would not normally be able to be developed has percable land throughout.

Mr. Knox noted the intent was never to develop land that can't be developed. A requirement was that they had to be able to prove it could be a conventional subdivision. That is why they need to have this discussion to clarify these points. Mr. Resnick noted that there is a significant process in the bylaw, even without the additions, that applicants will still have to go through. Mr. Knox asked for a draft for that August 3<sup>rd</sup> meeting that would protect the Planning Board and its intent, but where they could explain this to these other Boards.

#### **Discussion and action on possible Articles for fall Town Meeting – Retail with storage and distribution in the Business Zone**

Mr. Knox stated after thinking about this, he was not in favor. He did not like the idea of giving zoning relief for warehouse type businesses in the business zone. That zone is limited, and he would like to see retail, restaurants, brick and mortar type businesses, rather than that component of warehouse. Mr. Conroy said that he would not like to craft an entire zone for a few individuals, and then have it open up a lot of issues down the road. After discussion, Mr. Knox said that they

had looked at this based on an interested party who had come in with a hypothetical idea. He noted that business would not be there forever. What if somebody else comes in and the truck traffic increases or whatever the case may be. The business zone should be more for passenger vehicle traffic, rather than truck traffic. Mr. Resnick added that it would really be up to the Board and the townspeople, but more and more online businesses have a retail store front and an inventory for online sales. This would not necessarily be a wholesale component but for storage. Mr. Knox felt they should table this for now. Ms. MacEachern agreed they should have more input from residents before they move forward on anything like this. The Board does not want to be responsible for opening up a future troubling situation.

**Discussion and action on possible Articles for fall Town Meeting – Modifying setbacks and lot coverage in the Business/Industrial Zone**

Mr. Knox said they have information regarding this in their packets. This is to remove the density bonus component in the bylaw and allow 70% coverage by right because they now have architectural standards. His concern would be what if there is no building, for example, just a parking lot, which wouldn't trigger those standards or the landscaping that would be required. Mr. Resnick replied that would be land alteration which would require Site Plan Review. Mr. Knox asked how would it impact a pre-existing site. If it only had 50% coverage so no architectural standards had to be met, coverage could be automatically increased up to 70%. He thought they needed to vet this a little bit more.

Mr. Resnick noted that this is only for industrial which is a very limited area in Town. He had reduced this in the Business Zone to 60%, and then added that it could be increased by Special Permit for all three zones. Ms. MacEachern said that she was not comfortable at all with the 80%. Ms. Cline said she was okay with 60% but not comfortable with the 70%. Mr. Conroy said in his opinion the Industrial Park is where they want their businesses and warehouses, and he was okay with 70% by right, but 80% was too much. He did not think they should do anything with the business zone.

After further discussion, Mr. Knox said he could agree with getting rid of some of the minutia of what had been redlined for removal. However, he thought they should keep the basis of what they had at 50% in there and any increase would be by Special Permit including Industrial. Mr. Knox asked that Mr. Resnick modify this back to the basis and give the additional 20% by Special Permit. It doesn't change things a lot, but still gives them protection over a project that may be displeasing. Mr. Scott then spoke regarding the buffer zone between business/industrial and residential. He felt it was clear that 100 feet was not enough to provide noise mitigation particularly when houses are abutting a property. He asked the Board to consider this as they continued their discussions. He also agreed that the Special Permit is what gives the Board authority and more control. Mr. Knox said that the Board had recognized the need for increased buffers and had amended the DOD regulations to increase that to a distance of 300 feet. Members agreed that the redlined text could be removed from the bylaw as the architectural standards were now included in the Site Plan Review bylaw.

**Discussion and action on possible Articles for fall Town Meeting – Development Opportunities District Revision**

Mr. Resnick stated at their last meeting, they had discussed a couple of different areas in Town. They had then talked about modifying the DOD or expanding an industrial area because they are removing the possibility of having more commercial by removing the DOD. At one time, the Board had created maps with circles around areas close to highway exits. He has looked at those areas and come up with two that met the criteria discussed, which was a large undeveloped parcel, near a highway exit that could be reused or rezoned, and be developed into an industrial or commercial property. The first parcel is the Frank Will property off of Route 140 that is about 300 acres, and there is the parcel north of here that is on the other side of the railroad tracks from the Industrial Park.

Mr. Knox said if they wanted to rezone one of those areas maybe they should discuss what it is they would like to see there. Mr. Conroy noted the property off of 140 had been sold. Did the owner want to come in and present something? That was a large property, and would be a large project. They might have ideas of what they want to do, and the Board could work with them. In regards to the other property, he did not believe they had ever heard from the owner, and it had not been mentioned that they were trying to do anything. Ms. Pat Wrenn from 7 Taunton Street advised that it had been Gene Bartlett that had wanted that land zoned. She asked about the process of designating DOD sites. Mr. Knox replied the intent of this discussion was as they are eliminating the DOD which is overlaid over the entire Town; do they want to leave that as is, or do they want to create a smaller actual Overlay Zone on an area near highway ramps? That type of location would be more conducive to allowing traffic, not impacting people, and promoting some commercial growth to increase the tax base, but not burden the school system.

Mr. Knox said the process would be for the Board to continue their discussions. If they went forward with this, there would be a public hearing, and then it would go to Town Meeting for a vote. Ms. MacEachern asked if they should do some outreach, before they put more time into this to see if residents would be supportive. Mr. Knox replied it would be a good idea to do a grass roots survey about an area they were thinking about. It was asked if the Select Board could overturn a decision from Town Meeting. Mr. Resnick said they could not overturn a vote of Town Meeting. Mr. Knox suggested moving on from the Development Opportunities District. He could speak with Mr. Resnick regarding this and maybe return it to the agenda at a future time.

**Discussion and action on possible Articles for fall Town Meeting – Industrial District revisions**

Mr. Resnick said this had been meant to be a combined topic with the DOD. Mr. Knox said he thought if they were to consider rezoning a property as had been discussed tonight, the first step would be to talk to the owner as well as to reach out to some of the abutters. Mr. Resnick said that he has talked to the owner of the former AA Will property, and he is in favor of rezoning. However, it would not be the entire parcel, and he has not had the opportunity to sit down with him with the parcel maps. Perhaps, the new homes become the buffer to some commercial uses so that the existing houses have a large buffer. Mr. Knox asked Mr. Resnick for feedback from the owner in regards to this. Mr. Resnick added that he would also reach out to the owner of the other site up near Route 495.



### **Discussion and action on possible Articles for fall Town Meeting – Off premise sign clarification**

Mr. Knox asked if this was a housekeeping item. Mr. Resnick replied that was correct. The new sign bylaw removed off-premise signs from being permitted. This is under the section on Special Permits and was inadvertently missed. Mr. Resnick recommended sending this to Town Counsel which is what they prefer the Board to do now. Mr. Knox then made a motion, seconded by Mr. Conroy, that they send this proposed change to Town Counsel for review. The vote was **unanimous for**.

Ms. Ann Marie Sherrick of 3 Sterling Court then approached the Board and asked why they were speaking to these owners and looking for more industrial development. Mr. Knox replied they had just removed something, but they may still want to have some development in the future. Some development like that is good for the tax base and in the wrong location it is not good, but they don't want to eliminate all potential for that kind of growth. Mr. Scott then approached the Board. He said that he had a legal document that gave a lot of one-sided background and perspective on the development of the DOD. He would like to submit it to him so he has this information to share with the Board.

### **Meeting Minutes**

Mr. Conroy made a motion, seconded by Mr. Knox, to approve the Minutes from the June 9, 2022, meeting. Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Knox-Aye; Ms. Cline-**Abstain**

Ms. Cline made a motion, seconded by Mr. Conroy, to approve the Minutes from the June 23, 2022, meeting. The vote was **unanimous for**.

### **Review correspondence**

There was no correspondence to review.

### **Next meeting**

Mr. Knox said their next meeting is scheduled for August 11, 2022, at 7:00 p.m. However, there will be a joint meeting on August 3, 2022.

### **Next meeting – Discuss August meeting dates**

Mr. Knox asked if they had a light agenda were they considering forgoing the second meeting for that month? Mr. Resnick said it would depend on where they end up with their zoning discussion on the 11<sup>th</sup>.

### Discussion regarding the Housing Production Plan

Mr. Knox then asked members to refer to the Mansfield Housing Production Plan survey that had been distributed earlier. Mr. Resnick said that he thought SRPEDD would like to use this format in most of these questions. The survey will try to get a sense of what people feel about certain types of housing without getting into a lot of detail. Ms. MacEachern stated when talking about the Housing Production Plan calculating the general land area minimum is something that should be done in conjunction with it. Although this isn't under the Planning Board purview, she would really like to have a handle on what is the one and a half percent of the total land area which is another way for the Town to reach the safe harbor. Mr. Resnick noted it was a hard number to prove. He did not feel the Town was even close to it. Ms. MacEachern said it was still important that they find out what that number is.

Mr. Knox asked members to review the sample housing survey. They will discuss it at their August 11<sup>th</sup> meeting and agree or amend it as needed.

### Adjourn

Ms. Cline made a motion, seconded by Ms. MacEachern, to adjourn the meeting. The **vote was unanimous for.**

Meeting adjourned at 9:12.