

# Background Materials January 27, 2025– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 1/24/25

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### AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 9/11/23, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://www.southhadley.org/DocumentCenter/View/11705/Policy-on-Open-Comment-Period---As-Adopted-2023-09-11>

**Action Needed:** Allow members of the public to offer comments to the Board.

### AGENDA ITEM #2 Minutes

Planning and Conservation Coordinator Colleen Canning will forward minutes separately.

**Action Needed:** Vote to approve the minutes.

### AGENDA ITEM #3 Correspondence

Correspondence are attached.

**Action Needed:** No action needed.

### AGENDA ITEM #4 Discussion of Zoning Amendments for Agricultural Uses and Sign Guidelines

In July 2024, the Planning and Conservation Department engaged Planning consultant Richard Harris to conduct a comprehensive review of agricultural uses and signs in the Zoning Bylaw as well as within other local bylaws and regulations. Below are links to the reports. The Board should consider a schedule for discussion of the recommended amendments.

Agricultural Uses Zoning Amendment Recommendations:

<https://southhadley.org/DocumentCenter/View/13675/Agricultural-Uses-Review-and-Recommended-Amendments>

Sign Bylaw Amendment Recommendations:

<https://southhadley.org/DocumentCenter/View/13674/Sign-Bylaw-Review-and-Recommended-Amendments>

**Action Needed:** Identify schedule for discussion of recommendations.

### AGENDA ITEM #5 Discussion of Subdivision Regulations

In July 2023, the Planning Board began working on updates to the 1995 Subdivision Regulations. The updates to these regulations were being undertaken as part of a comprehensive revision that included coordinated review and amendment of the Flexible Development Bylaw. Subdivisions are allowed by right and have no requirements for the protection of open space, natural, scenic or historic resources on the site (local, state and federal laws and regulations do apply). Flexible Developments do require open space and natural/scenic/historic resource protections but are permitted through discretionary Special Permits. The intended approach was to reverse this and allow for the preferred development scheme (clustered housing with open space conservation) to be permitted by right with Site Plan Review to incentivize its use and thereby discourage the less desirable form of residential development in the form of standard subdivisions. However, Town Meeting didn't support this strategy and the amendments to the Flexible Development Bylaw, and associated supporting bylaws, were not adopted.

In updating the Subdivision Regulations, the approach should continue to be to address shortcomings identified in the Subdivision Regulations through recent project permitting and strengthen review standards with up-to-date design standards and best practices.

A revised package of Articles I thru XII was sent to Board members on 12/6/2024 and on 1/21/25. The revised package includes the following changes:

- Article VIII Submission and Approval of Plans for More Than One Building for Dwelling Purposes Per Lot has been added. This is Article VI in the current Town of South Hadley Subdivision Regulations.
- Articles VIII thru XII have been renumbered to accommodate the insertion of Article noted above.
- Article XI Required Improvements for Subdivisions has been expanded to include “and Developments for More than One Building for Dwelling Purposes per Lot”
- Updated page numbers for Articles IX thru XII.

### Status of Proposed Regulations Review by Article

In past meetings, the Board completed review of the following:

- Articles I thru VI, and Article VII, 360-26 and 360-27
- Article IX Design Principles and Standards (*renumbered as Article X*)
- Article X Required Improvements for Subdivisions (*renumbered as Article XI*)

*\*\*Meeting dates below are linked to the recording of that meeting; posted minutes link below date.*

Meeting Date	Topic
<a href="#">July 24, 2023</a> <a href="#">Minutes</a>	Introductory presentation

<a href="#">September 11, 2023 Minutes</a>	Article IX Design Principles and Standards (currently Article X)
<a href="#">September 25, 2023 Minutes</a>	Article IX Design Principles and Standards (currently Article X)
<a href="#">October 2, 2023 Minutes</a>	Article IX Design Principles and Standards (currently Article X)
<a href="#">November 27, 2023 Minutes</a>	Article X Required Improvements for Subdivisions (currently Article XI)
<a href="#">December 4, 2023 Minutes</a>	Article I Authority and Purpose Article II General Article III Definitions Article IV Pre-submission Review Article V Plan Believed Not to Require Approval (ANR Plans) Article VI Preliminary Plans
<a href="#">December 18, 2023 Minutes</a>	Article VII Definitive Plan (360-26 General, 360-27 Submission)

At the 12/18/23 meeting, the Board decided to table review of the regulations to begin work on the Flexible Development Bylaw and associated bylaws. After addressing incorporation of “multiple buildings for dwelling purposes on one lot” back into the regulations, we should resume review with Article VII Definitive Plan.

**Action Needed:**

1. Review Article VIII Submission and Approval of Plans for More Than One Building for Dwelling Purposes per Lot. This section was added back into the Regulations. Discuss potential changes to Article VIII to address ADU allowance for parcels with more than one dwelling for residential purposes per lot.
2. Review Article IX Pre-Endorsement, Endorsement, Performance Guarantees, and Implementation of Definitive Plan
3. Review Article XI Required Improvements for Subdivisions for the addition of “and Developments for More than One Building for Dwelling Purposes”
4. Review Article XII Administration
5. Review Appendices (at a future meeting)

AGENDA ITEM #6 Planning & Conservation Department Report on Planning Projects and Development Updates

**A. Next Planning Board Meetings and Other Important Dates**

Planning Board typically meets the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of the month.

2/2/25	ADU Amendments MGL c40A go into effect
2/10/25	6:30pm - Special Permit for Expansion Preexisting Nonconforming Structure – 11 Brockway Lane - <b>WITHDRAWN</b> 7:00pm - Special Permit for Expansion Preexisting Nonconforming Structure – 3 Roundelay Road
2/24/25	
3/10/25	
3/24/25	
4/14/25	
4/28/25	
5/5/25	
5/14/25	Annual Town Meeting
5/19/25	
6/1/2025	Business A-1 Mixed Use Permitting Moratorium Expires - Design Guidelines Adoption Due
June – 6/9 & 6/23	

**B. Planning Board 2025 Priorities**

The following items are on the docket for FY25:

Item	Comments
<b>Business A-1 Design Guidelines</b>	Due by June 1, 2025; Moratorium on permitting under the amendment expires 6/1/25
<b>ADU Bylaw Amendments</b>	Amendments required for compliance with the Affordable Homes Act ( <a href="#">Chapter 150 of the Acts of 2024</a> ). Changes to MGL c40A go into effect 2/2/25. EOHLC has issued final regs: <a href="#">ADU-Regulations-CMR-71---FINAL-1172025</a>
<b>Route 202/33 Corridor Zoning Bylaw Amendments and Design Guidelines</b>	The project schedule has the Advisory Committee sending these to the Planning Board in February/March for review and discussion, finalizing a draft, public hearing, and then to Town Meeting for May 2025. I’m not sure this timeframe is feasible at this point. Fall Town Meeting seems more realistic.

<b>Sign Bylaw Amendments</b>	255-85 is in conflict with a 2014 Supreme Court decision ( <a href="#">Reed v. Town of Gilbert</a> ) which addresses neutral content of signs. Planning Consultant Richard Harris has prepared a detailed review and recommendations. The Board needs to identify when they want to take this up.
<b>Agricultural Uses in Zoning Bylaw Amendments</b>	Agricultural uses within the zoning and general bylaws, as well as Board of Health regulations, are in conflict. Planning Consultant Richard Harris has prepared a detailed review and recommendations. The Board needs to identify when they want to take this up.
<b>Water Supply Protection Bylaws</b>	PVPC prepared a review of zoning and general bylaws in regards to water supply protection in 2021 (issued January 2022). Advisory Committee to be reconvened.

**C. 27 Bardwell Street Special Permit Status**

Member Brown requested an update on the status of this project. The Special Permit was issued in 2016, and amended in 2018 for 5 dwelling units, 3 garage bays in the building, a freestanding accessory garage with 2 bays and 5 open air parking spaces.

Past Decisions and plans online here:

[Bardwell Street \(27\) - Library Conversion to Condos | South Hadley, MA - Official Website](#)

The Special Permit history for this project is as follows:

- February 10, 2016 - Special Permit Approval
- January 10, 2018 - Special Permit Amendment
- January 28, 2020 – Special Permit Extension – 7 months
- February 4, 2021 – Special Permit Extension
- September 23, 2021 – Special Permit Extension
- April 12, 2022 – Special Permit Extension – expired December 2022
- April 11, 2023 – Special Permit Extension – expired December 2023
- January 1, 2024 (retroactively issued 6/12/24) – Special Permit Extension – expired 12/31/2024 – **Permit Tolling Effective – New permit expiration date 1/1/2026**

As a condition of the 1/1/24 extension, the applicant was to file bimonthly progress reports. Since then, progress reports were received only on 7/2/24.

**New Permit Tolling Period** The Economic Development Bond Bill signed by Gov. Healey in November 2024 included a new permit tolling period from January 1, 2023 to January 1, 2025. A summary of

which follows. Therefore, it is my understanding that the Special Permit extension issued on 1/1/24 remains in effect until 1/1/2026.

Date when tolling period began	Date of Issuance of a permit	Original Expiration Date of a permit	# days permit is tolled	End of tolling period	new tolled expiration date
1/1/2023	1/1/2024	12/31/2024	365	1/1/2025	1/1/2026

Permit Tolling Guidance from Mead, Talerman and Costa:

“Third, a new “tolling period” (January 1, 2023 to January 1, 2025) has been implemented for any “approvals” (i.e. permits-including building permits, certificate, order-excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, etc) granted by any state or local agency, department, commission or instrumentality and “environmental permits” (including certificates, licenses, certifications, exemptions, variances, waivers, building permits, or other approvals or determinations of rights). The statutes under which the environmental permits fall for the purposes of the tolling period are numerous, and include Chapters 21, 21A (except section 16), 21D, 30A, 40, **40A** through 40C, 40R, 40Y, 41, 43D, 91, 131, 131A, 143, 258, and Chapter 665 of the Acts of 1956, and any local by-law or ordinance. Specific statutory sections include, c. 30, §§61 to 62L, c. 81, § 21, and c. 249, §§ 4 and 5. The tolling period does not apply to approvals or environment permits of the federal government, Massachusetts Division of Fisheries and Wildlife, administrative actions of the Massachusetts Department of Energy Resources, or agreements entered into by MassDOT or MBTA. However, even where this tolling provision applies, a municipality may nevertheless revoke or modify any permit, approval, or extension of a permit or approval where either the permit or approval (or extension) or the law or regulation under which the permit, approval, or extension, contains language that it may be modified or revoked. This is very broad, so towns and cities may consider amending language in their permitting regulations and approvals to provide for modification or revocation if not already provided.”