

Rowe Planning Board  
August 17<sup>th</sup>, 2021  
7:00 P.M.

**Planning**

**Board:** Chair Paul McLatchy III, Vice-Chair Ben Werner, Charles Sokol  
**Absent:** Daniel Burke, Jessica Albrecht

**Audience of**

**Citizens:** None

Approved Motion Summary:  
(discussion details and vote records in minutes below)

- Approve the minutes of July 13<sup>th</sup> 2021 as presented.
- Adjourn the Planning Board meeting at 8:35 P.M.

Meeting Minutes:

**Call to Order:** Chair McLatchy III called the Planning Board meeting to order at 7:05 P.M., a quorum of the committee present.

**Minutes of July 13th:**

A motion was made by Paul McLatchy III and seconded by Ben Werner to approve the minutes of June 13<sup>th</sup> 2021 as presented.

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Absent
Jessica Albrecht	-	Absent
Charles Sokol	-	Yes

**Counsel Response to Question Regarding Mr. Poehlien's Special Permit Application:**

Mr. McLatchy III corresponded with counsel Donna MacNicol regarding clarification of when automatic granting of the special permit to Mr. Poehlien for the use of his property as a short-term rental unit.

Counsel MacNicol responded via email on Wednesday, July 28, 2021 at 11:43 AM stating:

*"If you don't have a hearing or file a decision within 65 days (for hearing) plus 90 days for decision, then I would argue that 155 days from filing of the application, the applicant can give notice of a constructive grant under the provisions of M.G.L. c. 40A, section 9."*

Mr. McLatchy III requested clarification on what would be required of the Planning Board or of the Town should a constructive grant be pursued.

Counsel MacNicol responded via email on Tuesday, August 3, 2021 11:20 AM stating:

*“You [the planning board] do not pursue the constructive grant, the applicant does. There is a process detailed in the statute.”*

Mr. Sokol noted that the 155-day timeline after the May 19<sup>th</sup> filing of Mr. Poehlien’s special permit suggests a constructive grand could be pursued by Mr. Poehlien as soon as October 21<sup>st</sup>, 2021.

**Continued Absence of Several Planning Board Members:** Mr. McLatchy III suggested that we send letters to the two members of the board who have not yet participated in any meetings this term in which the Planning Board ask that they decide if they would prefer to participate in the business of the board, or if they would prefer to step aside.

He noted that although much of the Planning Board business can be accomplished with only three of the five members present, the granting of a special permit through a constructive grant (which may occur if there is never a four- or more-member quorum to approve or deny the special permit through the traditional process) is permanent and is assigned to the property; i.e., if the property is ever sold or transferred, the approval for the special use stays with the property through that and any future transfer of ownership. This is dissimilar to a traditional special permit approval, which is non-transferrable, and may have limitations on duration imposed by the Planning Board as part of an approval.

The sentiment of the board was that a polite letter sent to the two members who have not been participating would be a reasonable way to encourage participation or resignation. The board will meet briefly after Mr. McLatchy III drafts such a letter to approve said letter.

**Zoning Bylaw Review:** The planning board began reviewing Zoning Bylaws, starting with those bylaws identified as “High Priority” at the July 13<sup>th</sup>, 2021 meeting. All suggested re-wording of these bylaws is tentative, and each may be formally presented through the public hearing process at a later time if the Planning Board wishes to pursue adoption of any or all of these changes.

## **Section 2:** Relating to use regulations

The Planning Board discussed the limitations on dwelling types imposed by Section 2.B.I. The board determined that altering the use table as follows may be prudent:

### I. Residential Uses

- a. Detached, Single Family Dwelling –  
No Change
- b. Two-Family or Semi-Detached Dwelling –  
Change from “Special Permit” to “By Right” for both zone types
- c. Multi-Family –  
Change from “Disallowed” to “Special Permit” for both zone types
- d. Trailer Park or Mobile Home Park –  
No Change

**Section 6:** Relating to number of dwellings per lot

After some discussion, the Planning Board determined that allowing for more construction in the town would be better accomplished through examining the building lot size definitions as established in Section 7.

No change to Section 6 was suggested at this time.

**Section 10:** Relating to number of unrelated persons within a single dwelling

The planning board determined that this section is problematic given the changing cultural definitions of a “family,” and collectively the board determined this section should be stricken from the Zoning Bylaws.

Note that the numbering of all following Zoning Bylaws will be referenced as if Section 10 still exists to avoid confusion until any changes are adopted by the town.

**Section 18:** Relating to special permit application filing and issuing

The Planning Board discussed ways to make the date of filing a special permit application more clear and no longer reliant on an official acceptance at a scheduled meeting of the Planning Board, as well as referencing the applicable Massachusetts General Laws. After some discussion the following wording was agreed upon:

*“Special Permits shall be issued in accordance with Massachusetts General Laws Chapter 40A Section 9. A special permit application shall be considered filed as of the date the application is received by the office of the Town Clerk, either delivered in person or by certified return receipt mail. A special permit application, along with a record of the date of filing with the office of the Town Clerk, shall be delivered to the Planning Board. If substantial use or construction has not commenced without good cause within a period of one (1) year from the date of the granting of a special permit, the special permit shall lapse. This time limit includes time required to pursue or await the determination of an appeal.”*

**Section 20:** Relating to public hearing notices

The planning board determined aligning the notification requirements of public hearing with the applicable Massachusetts General Laws would simplify the process. After some discussion the following wording was agreed upon:

*“The Planning Board and the Zoning Board of Appeals shall mail notice of their public hearings in accordance with Massachusetts General Laws Chapter 40A Section 11.”*

