



TOWN OF WHATELY Whately, Massachusetts

Planning Board

Mailing address:

4 Sandy Lane, So Deerfield, MA 01373

Minutes of the September 27, 2023 Virtual Meeting 5:00 pm via Zoom

Present: Members Sara Cooper, Tom Litwin, and Judy Markland

Absent: Brant Cheikes, Don Sluter

Others attending: Sylvie Jensen; Wayne Hutkoski, Water Department; George Bucala and John Lukin, Water Commissioners

In Don's absence, Judy called the meeting to order at 5:05 pm and it was recorded.

Aquifer Protection Overlay District (APOD) Zoning Map discussion

Judy summarized the excellent update on the APOD boundary delineation project (attached) that Brant had submitted, noting that the April 2006 map (attached) had subsequently been located, that it includes the District wells within its perimeter, and that Kimberly McPhee's notes for the annual meeting indicate that the 2007 revisions to the original zoning map were due to information after the 2006 town meeting that bedrock wells required a different protection zone.

Wayne Hutkoski began commenting on the update but his audio was not clear and George Bucala and John Lukin continued the update. John Lukin reported that the April 2006 map was the result of a thorough and expert study by state hydrologists. The Town's backup well is 70' away from the current well and within the Interim Wellhead Protection Area (IWPA). The area delineated by the 2006 map provides excellent protection for both the current and backup town well and they recommend reverting to this map without IWPA for the District wells for the town's zoning.

The Commissioners explained that the state is now requiring that the backup well support the Town's highest daily water use, which it currently cannot. Tests will need to be done to determine if widening the well to 12" would provide the necessary capacity. If not, a new location for a backup well would need to be found, at which point a new APOD map would be needed for that location.

Tom noted that Hadley is currently acquiring land to protect a well that had earlier been decommissioned to use as a backup and asked if the Town shouldn't continue the APOD zoning for the District wells as a precaution. George responded that there was too small

a water supply for those wells to be of any significant use to the Town. Sara asked what would happen to the wells, and John said that he didn't know but that the typical practice is to fill them with concrete so there is no pollution threat to the water.

Judy noted that one of the options on Brants summary is to postpone action on any aquifer zoning map change until the location of the backup well is definite. George said they hoped to complete the backup well testing in 2024 and expected good results. John noted that the water supplying the two wells is more than adequate. He also explained that finding another backup well location would not only be a lengthy process, but an extremely expensive one costing millions of dollars that the town would have to locate, lengthening the process.

The Board agreed that there seemed little point in delaying the map revision for the backup well and to recommend the 2006 APOD map without the District IWPA to town meeting in the spring.

Exit 35 Committee update

Judy reported that the Committee is progressing slowly. The consultant from Berkshire Design Group has helped delineate the area being considered by the group. The consultant has recommended creating a "Gateway" area, with a pedestrian-friendly design along Old State Road. Recommending zoning for mixed-use residential housing is being seriously considered for that stretch of road.

Tom asked if the group had consulted the Master Plan recommendation for mixed-use residential zoning along Christian Lane as a reference. It had not, and Sylvie volunteered to track down the plan.

Sara commented that the word on the street is that Nouria Energy, owner of the truck stop and Diner, has plans to greatly modernize the truck stop with improved showers, an expanded store and charging stations, so that both truck and automobile drivers may be spending more time there.

Housing Committee update

The Board reviewed Brant's summary (attached) of the Housing Committee's progress to date with prioritizing zoning recommendations to better facilitate affordable housing development. The group agreed that we should devote time at an upcoming meeting to discussing the Board's priorities for these changes.

Resource replacement fee

Judy noted that the Select Board is required to update the calculation for this fee every year once the fiscal year assessment values are determined. The Assessor has produced the values for the calculation, but she is not aware that the fee amount has been determined. Sylvie agreed to check on the matter.

Other business

Judy commented that the recent draft Solar Action plan notes that the current height limitation in our solar bylaw might preclude canopy solar facilities, which the Board has

avored. Sylvie agreed to check on the typical height of these facilities and report back to the Board.

Approval of minutes

The Board unanimously approved the minutes of July 12, 2023 as amended.

The draft minutes of March 29, 2023 were discussed. Judy had made some edits and had suggested removing some text and moving another paragraph. The Board approved the minutes subject to adopting those changes and adding the information on the files reviewed at the meeting.

The date for the next meeting was tentatively scheduled for October 24, subject to Brant and Don's availability.

The meeting was adjourned at 6:05.

Respectfully submitted,

Judy Markland

Additional documents on file discussed at the meeting:

Kimberly MacPhee, "Town Meeting Talking Points re Aquifer Overlay Protection District", April 2006.

Markland revisions to the draft minutes of the 3/28/23 Planning Board meeting sent 9/27/23.

Attachment 1

Progress Report on Aquifer Protection Overlay District (APOD) Boundary Delineation Project

- The first Aquifer Protection Overlay District (APOD) bylaw was approved at Annual Town Meeting in April 2006. Kimberly Noakes MacPhee (FRCOG) spoke in favor of the new bylaw (we have received a copy of her talking points).
 - We have not yet located the zoning map that was approved at the time which delineated the boundaries of Zones I, II and III.
 - We are not certain at this time whether the initial map delineated APOD boundaries for both the Whately Water Department (“Department”) Public Water Supply (PWS) as well as the Whately Water District (“District”) PWS. MacPhee’s talking points document seems to suggest that the initial map encompassed both PWSs.
- At Whately’s Annual Town Meeting in April 2007, revisions to the APOD were proposed and approved. Kimberly Noakes MacPhee (FRCOG) spoke in favor of the revisions (we have received a copy of her talking points).
 - Per MacPhee’s talking points, one revision addressed flag lots, and the other revision pertained to “protective areas around the Water District wells [that was] discussed in more detail by Don Sluter.”
 - At this time we do not have any details on the changes that were discussed by Don Sluter at the time. (Action: Obtain minutes of ATM 2007.)
- We have received a copy of the APOD map that was approved at ATM 2007. It clearly delineates boundaries that address both the Department and District wells and aquifers.
- The Whately Water District (WWD) Public Water Supply (PWS) was formally abandoned in 2022.
 - We have a copy of a letter dated December 7, 2022, from the Massachusetts DEP to the Whately Water District. This letter conveys state approval for declassifying the Water District as a PWS.
- During 2023, the Planning Board developed and recommended revisions to the APOD bylaw that removed most of the language referring to the District. But the Board elected to leave the APOD zoning map unchanged. These changes were approved at Whately’s 2023 Annual Town Meeting.
- After ATM 2023, the Planning Board discussed whether the APOD boundaries should be modified to reflect the abandonment of the District PWS. Sentiment varied, but it was generally agreed that the Board should investigate the matter further.
- To date, no formal requests or directions have been presented to the Board to revise the APOD boundaries. We are aware of one affected landowner who feels the boundaries should be changed, and it has been suggested by Nicholas Jones that the legal basis has been lost for retaining any protection zones that were intended solely to protect District water resources. But we have no legal guidance to that effect.
- On July 14, 2023, the Board sent a letter to the Whately Water Department asking for advice and recommendations.

- On September 25, 2023, the Board received an email from the Water Department. This letter came along with a map. The message states:
 - “I have found this map of what I believe was the zone layout before the Water District put [their] Zones into place. **The commissioners are good with going back to what this map shows** [emphasis added]. Also we are in the process of applying for a water management act permit, which is being required by the DEP because of the amount of water we withdrawal. Long story short part of this permit process is that we need to show that the primary well can support the town’s highest daily use, which it can, but as well as the primary well the backup well has to do the same if the main well goes down. At this time the backup well can produce 90 gallons a minute which is not big enough, so we will be doing pump tests to see if we can make the current 6 inch well bigger or will need to find a new well location, which in turn would mean redrawing and mapping the aquifer protection zones.”

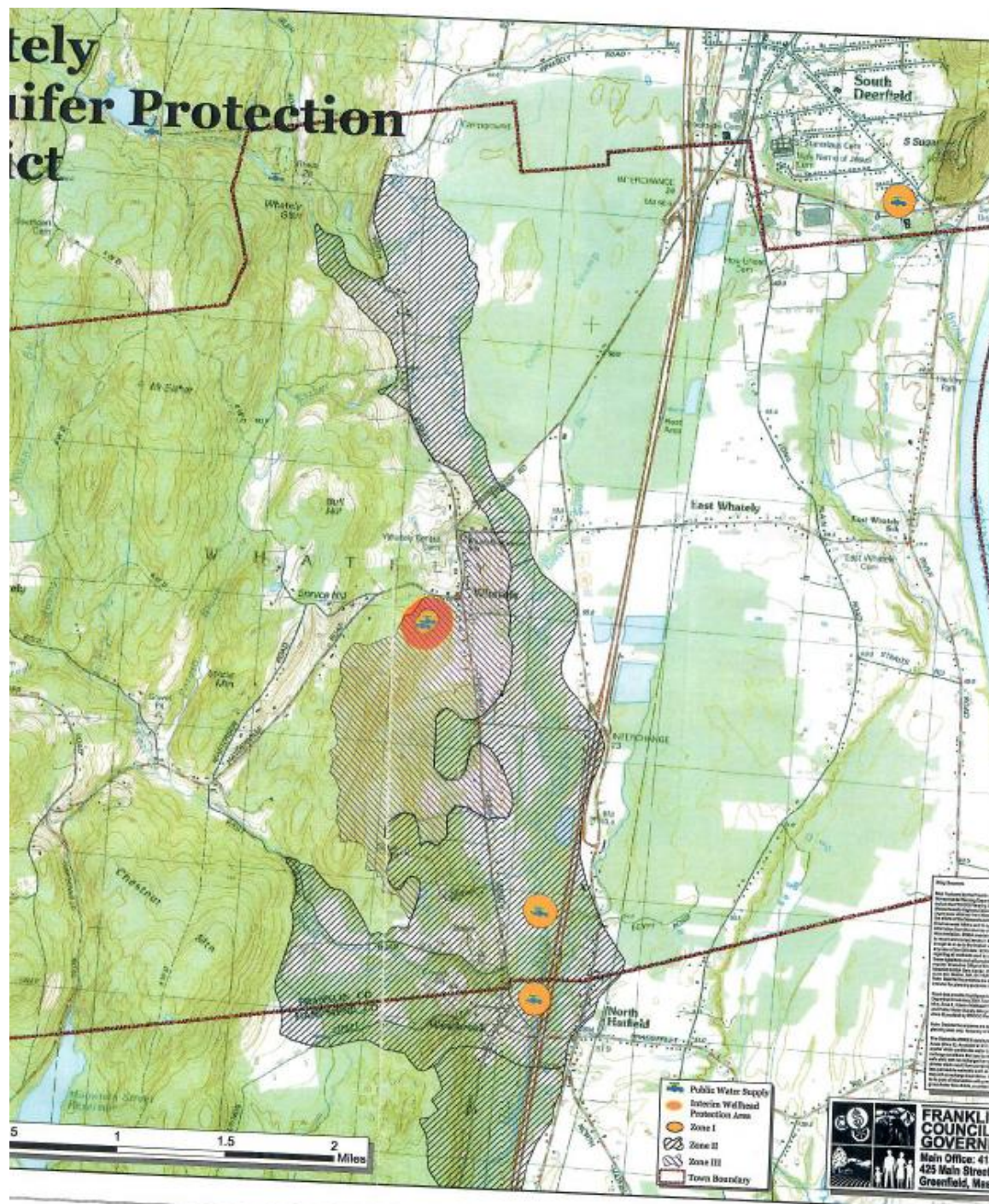
Open Questions

- Should we put this matter on hold until the status of a Department backup well is finalized?
- Should the Planning Board proceed with a zoning map revision that redraws the APOD boundaries to match what is shown in the map we have just received from the Water Department?
- Should other studies be commissioned to delineate new APOD boundaries to protect Water Department water resources?

Submitted by Brant Cheikes on September 27, 2023

Attachment 2

Whately Aquifer Protection District Map, 2006



Attachment 3

Progress Report on Housing Committee work post-HPP

- The Whately Selectboard approved the final draft of Whately's Housing Production Plan (HPP) in August.
- The final version of the HPP can be found in the Planning Board OneDrive folder, in the *Housing* folder, with the filename *Whately HPP_7-21-23 FINAL APPROVED.pdf*.
- Having obtained all required town approvals, the HPP has been submitted by FRCOG to the state for approval.
- The Housing Committee met on August 14 to discuss next steps on the HPP.
- With regards to Planning Board actions, the Housing Committee understands that they should attempt to identify those actions in HPP Table 27 (pp 89-94) which they would like the PB to prioritize.
- After some discussion, the Housing Committee reached consensus on two priority areas: (1) "Reduce Barriers to Accessory Apartments to Increase Affordable Housing Supply", and (2) "Incentivize Affordable Housing Units".
- With respect to Accessory Apartments (aka Accessory Dwelling Units or ADUs), the Committee believes that Whately residents would welcome zoning bylaw revisions that make ADUs more affordable, feasible, etc. That said, the Committee lacks data on the current state of ADUs in Whately. It is not clear whether reducing barriers to ADUs would significantly increase ADU development. Further, the Committee does not see that reduced barriers to ADUs would significantly affect the town's subsidized housing inventory (SHI), which is a key goal of the HPP.
- Because the Committee does wish to see Whately make progress on its SHI, the Committee also reached consensus on zoning changes that would have the effect of incentivizing affordable housing.
- The Committee also discussed the fact that none of the committee members have sufficient relevant background or experience to be confident of bylaw revisions that, if implemented, would lead to significant increases in affordable housing. It was suggested that the Committee reach out to local housing development organizations with pertinent expertise, such as the Valley CDC, the Franklin CDC, and Habitat for Humanity. It would be helpful if the Committee could access expertise able to review current zoning bylaws and suggest the kinds of changes that would have the greatest impact.
- The Committee agreed to meet monthly and continue the discussion. Next meeting is scheduled for Wed October 4th.

Submitted by Brant Cheikes on September 27, 2023