

Minutes of Zoning Board Meeting
Town of Whately, MA
April 22, 2021
Remote Meeting via Zoom

Members Present: Roger Lipton, Bob Smith, Debra Carney, Kristin Vevon, Fred Orloski
Members Absent: none

Attending:

Scott Jackson
Todd Cellura
Robert Levesque
Maureen Nichols
Alisha Allen
Sandra Saunders
Sara Cooper
John Fitzgibbon
David Bergman

TWO PUBLIC HEARINGS continued from April 1, 2021

Todd Cellura, of Sovereign Builders, Inc., has applied for two special permits. The first is to build a self-storage facility encompassing three buildings on property located in the Commercial Zone at State Road (Map 5, Parcel 29). The second is to allow a sign not to exceed nine (9) square feet in area or ten (10) feet in height, to be located outside the property line and within the right-of-way.

At 6:40 pm, Roger opened the hearing and addressed the main project. Robert Levesque, of R. Levesque Associates, Inc., shared site plans dated Feb 23, 2021 onscreen and described how Todd Cellura, currently leasing the property from owner Sharon Halleck, has a purchase and sale agreement to buy it. The board viewed existing conditions that include some wetlands (floodplain, bank, and stream) as well as the placement of an existing culvert. He explained that he had obtained a determination of the wetlands boundaries and had walked the site with Scott Jackson, of the Conservation Commission. He said the storage unit project would have a footprint of 20, 800 sq. ft., and the buildings (one of which has 3 stories) would have a total of 62,400 sq. ft. He mentioned guard rails and a safety fence around the perimeter, and added that they intended to stay out of the wetlands. He said that everything outside of the buffer tree line would be untouched. A septic system is proposed, he said, to serve the proposed small office. Regarding storm water, Mr. Levesque described catch basins to contain water brought to them by roof leaders. He added that the basins had guards for snow and ice.

He also said that they had to comply with Army Corps of Engineers standards for stream crossings, and other requirements. He described the stream crossing as involving a precast concrete retaining wall as well as concrete block, and showed a blow-up of the proposed stream crossing construction details. He also showed the photometric plan for the area to be lit.

Applicant Todd Cellura said

- The 3-story building would be 35 ft. tall at peak (right at the Whately limit).
- The driveway would be 24 ft. wide (12 ft. per lane) and approximately 40 ft. from the property line.
- The property is in the commercial zone.
- Patrons will take stairs or an elevator to the upper floors.
- Building interiors will be air conditioned to a range of 55°F – 85°F, and humidity-controlled.
Heat pumps will probably be used initially, eventually followed by solar panels mounted on the roof at the north end. Air conditioner noise should not be a problem since today's units are pretty quiet.

Mr. Cellura shared an aerial view of the property, but some of the abutting properties and houses were mostly covered by trees. Asked for more detail, he shared a screen of the same view with surrounding properties labeled.

Next, the board addressed the second special permit application, for a sign. The board was told that it hadn't been designed yet, but plans are for a high-line sign at the north side of the entrance, 10 ft. high with a sign area of 9 sq. ft. Perhaps there will also be a sign on the office door, but nothing else. Roger read the Whately Zoning Bylaws requirements for the larger sign, and found that the proposed dimensions comply with Whately's requirements.

Roger asked for comments from abutters. John Fitzgibbon responded on behalf of a client, and asked about vegetative screening. Robert Levesque answered that they plan to study the addition of buffer plantings, and will consult with Todd Cellura about it. Mr. Fitzgibbon said that the peak of the building has no height marked and asked how abutters can really know its height. Roger Lipton said that Todd Cellura will have to observe the regulations to get a building permit. Mr. Fitzgibbon noted that the existing stream crossing is an old one, and that the project proposes to increase the culvert capacity dramatically. He said his client's property also has a culvert and that the client is worried about the effect of the new, larger culvert on his own culvert and property. He stated that the bylaws will also have to be checked to make sure that all pertinent regulations are observed for building that, as well. Robert Levesque said he will consult his engineers about it.

John Fitzgibbon stated that the sign will hinder his client's view of the road's curve. Mr. Levesque said they will check on that, noting that the sign will be 10 ft up. Asked for the number of storage units to be built, Mr. Levesque agreed that the number of units could be determined by multiplying the number of units on one floor by three, but said he did not have the number of units to multiply. He then noted that most people rarely visit their units – maybe 2-3 people per day. He added that lots of by-right uses could occupy this property that would be much more intrusive. Mr. Fitzgibbon then quoted the Institute for Transportation Engineering, which he said estimated 200 – 300 visits per day. Robert Levesque said that was highly inaccurate, and agreed that his company had not had a traffic study done for this project. Mr. Levesque added that the property is a good spot for an industrial use like his project, and that there will not be traffic that will change the character of the area.

The house of abutter David Bergman was drawn by Roger Lipton as a red line on the plan during the meeting. Mr. Bergman confirmed its location.

3.

The hearing was continued to May 6 at 7:30 pm. Debra Carney noted that she had missed the April 1 meeting. Roger replied that the meeting had been immediately continued, so she missed nothing. Bob Smith will be unavailable on May 6 so Debra, Kristin, and Roger will vote on this matter.

Roger called for a ZBA site viewing before the continuance, especially with regard to the 500 ft. separation requirement between driveways; it was scheduled for Saturday, May 1, at 11:00 am. The applicant will be prepared to include these points in the tour: trip generation; culvert effects; any blocking of the view by the sign. Stakes will be put in the ground to show the corners of the buildings.

Bob added that the board will need to know the height of the driveway; Roger said they would need to be shown that water will not flow from this property to an abutter's; John Fitzgibbon noted that, at its closest point to an abutter's property line, the project is only about 10 ft. away.

Before leaving the meeting, Roger let the board know that he is waiting for an opinion from Town Counsel about possible language changes to the Canna Select decision. Roger then recused himself from tonight's next agenda item due to a professional conflict of interest involving his law practice. Bob will continue to run that hearing and Bob, Debra, and Kristin will eventually vote on it.

PUBLIC HEARING *continued from April 1, 2021*

Stephen Herbert, of Urban Grown, Inc., has applied for a special permit to cultivate marijuana on premises located in the Commercial Zone at State Rd. (Map 32, Lot 6). Also requested is a waiver, as described in Whately Bylaws section 171-28.6, C., 5., to allow reduction of the required 500 ft setback from a recreation area (Tri-Town Beach) to 300 ft.

Stephen Herbert shared his screen for the viewing of an updated plan (an electronic sketch emailed April 1) which no longer shows storage units, a feature dropped from the project. He stated that now, the only purpose of the application is the cultivation of cannabis.

Bob Smith stated that he did not have the attachments that were supposed to accompany the 7- page draft site plan sent on March 18, and that the board would need to see them. Regarding tonight's updated sketch, Bob said the board would also need to see a site plan with the abutters' properties labeled. Stephen Herbert said that Urban Grown was having a professional draw up a plan.

At this point, Scott Jackson, of the Conservation Commission, told Mr. Herbert that his aerial view of wetlands shows no measurements, which are required. He then said that the Conservation Commission does not consider this property to be a buildable site because of the presence of wetlands, and that this alone may stop the project. He explained that wetlands in the area are determined by the nature of the soil before Routes 5 and 91 existed. He said that in the opinions of three scientists who have visited the site many times, the site is considered to be wetlands. You can't judge by surface water, he said, adding that it has been a dry spring, but the area is wetlands.

The board discussed how to handle this development and determined that they could continue with the hearing tonight, but would also need the attachments mentioned earlier as well as the better site plan. It was noted that there are two points to consider: 1) a special permit to grow cannabis and 2) a waiver to allow a setback from Tri-Town Beach that is smaller than required by the Whately Zoning Bylaws.

Bob noted that some of the abutting land is owned by the Commonwealth of Massachusetts, and asked whether that land is considered “recreational” property. Scott Jackson replied that Lot 7 is owned by the Massachusetts Dept. of Fish and Game, and Bob asked whether it is intended for hunting, fishing, and recreation. Scott Jackson replied that the land is open for public access for hunting and fishing, but has not been *improved* for that. Fred commented that, rather than pursue this now, the ZBA should wait until it knows whether the project can go forward despite the wetlands issue.

Debra noted that although the ZBA can approve as to use, any other board can also comment, and can assist the petitioner. Bob suggested viewing the site on Saturday, May 1, at 10:00 am. The board and the applicant were all in agreement, and the visit was scheduled. Scott Jackson told Stephen Herbert that he and Mr. Herbert’s consultant could also go out to the site and discuss it.

The board discussed a continuance date for the next session of the hearing, and Wednesday, May 5, at 6:40 pm was agreeable to all. The secretary will ask Amy to book Zoom time on the Whately account. If that date and time are already taken, people can meet on May 13 at 6:40 pm instead. If anything changes, the secretary will contact Sandra and Peter Saunders about it, Bob said.

The meeting was adjourned.

Documents Reviewed (kept in the ZBA files)

1. Site plans dated February 23, 2021, prepared by R Levesque Associates, Inc. and titled,

Site Plans
Proposed Self-Storage Facility
State Road
Whately, MA
Map 5, Parcel 29
As Prepared For
Todd Cellura
Sovereign Builders
135 Southampton Rd
Westhampton, MA 01027

2. An undated electronic sketch titled,

Urban Grown Inc.
Updated Site Plan Sketch

Mary McCarthy
Secretary
Zoning Board of Appeals
Town of Whately, MA