

**Minutes
Topsfield Zoning Board of Appeals
Virtual Meeting
Annual Joint Meeting with Planning Board
February 23, 2021**

Chairman Bob Moriarty called the meeting to order at 7:03PM. Board members present included Chairman Moriarty, David Merrill, Gregor Smith, Alternate, Kristin Palace, Jody Clineff and Dave Moniz. Donna Rich, Community Development Coordinator, was also present.

Visitors names on screen via zoom: Planning Board members: Martha Morrison, Steve Hall, Josh Rownd, Jennie Merrill and Greg Mellinger, Town Clerk Beth Willis, Building Inspector Glenn Clohecy, Fiesta Shows EJ Deane and Gene Deane, Topsfield Fair Manager James O'Brien, Town Administrator Kevin Harutunian, Select Board members: Lynne Bermudez and Dick Gandt, Nancy Luther, Pat English, Mark Pacheco, Linda S. and James phone.

GOVERNOR'S ORDER

Chairman Bob Moriarty stated "Pursuant to Governor Baker's March 12, 2020 order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Zoning Board of Appeals will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Topsfield website at www.topsfield-ma.gov For this meeting, members of the public who wish to watch or listen to the meeting may do so in the following manner: Video conference (see log-in information below.) No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means".

Chairman Bob Moriarty continued by stating documents for the meeting can be found on the Town website: www.topsfield-ma.gov / Zoning Board / Meeting of Feb 23 Documents (blue tab).

Chairman Bob Moriarty called the meeting to order at 7: 05 pm.

Chairman Bob Moriarty read the following Announcement: "The meeting is being recorded via ZOOM and it will be available on the Topsfield website Cable Video on Demand page. Is there anyone else present who wishes to record the meeting?", hearing none, the meeting continued.

Public Hearing: *Continued*

371 Boston Street – Sabino/The Morin-Cameron Group, Inc: Chairman Bob Moriarty noted that the hearing was continued until March 23rd.

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Public Hearing:**207 Boston St, Essex Agricultural Society & Fiesta Shows**

Clerk David Merrill read the Legal Notice to open the Public Hearing. Chairman Moriarty asked for an explanation of the application, Fair Grounds Manager James O'Brien stated that after last year's success of the drive-in movie at the Fair Grounds they wanted to extend it into this year and request a special permit. Chairman Moriarty requested information about the numbers of cars, noise, process and hours of operation. Fiesta Shows EJ Deane stated the sound for the movie is not from a public announcement speaker, patrons receive the sound directly through an FM radio signal that goes to the individual vehicles. Vehicles are not permitted to idle due to Massachusetts law prevents this and therefore, it is not permitted by Fiesta Shows. The cars are monitored by the parking attendants. Deane noted that last year 55,000-60,000 people (not cars) attended the drive-in movies. This year Fiesta Shows would like to run Hollywood First Run movies, new releases, however it requires a 17-day mandate run of the movie. It was explained that with the addition of the second screen this would allow for more flexibility to cater to a wider audience and be in compliance for the new releases. It was asked about food being available for sale on the premises, Deane reported that mobile concession tents would be erected under the guidance of the Board of Health, as was last year. The departure of the expected 500 cars was discussed and Deane noted that the start and end of the movies would be staggered so to minimize causing any issues. Chairman Moriarty opened up for comments to the board members. Jody Clineff asked about idling of cars in the colder months of operation, Deane reported that it is clearly posted that idling is not permitted and was not an issue last year. People brought blankets and cars stayed relatively warm for the time of the movies. Clineff questioned the distraction the movies might provide to cars traveling along Route 1. Deane stated he met with Chief Hovey and Building Inspector Clohecy regarding the visibility. It was determined that screen 1 would have no issues and screen 2 might have a 60-80-foot of potential site issue and would be moved to avoid any obstructions as needed when it was constructed. When asked if the request was for one year, Deane stated they would like to be able to have the drive-in for the next few years. Deane explained that the request was to run movies on weekends in April through June and again September through December, weather permitting. In July and August movies would run 7-days a week. During the 10-days of the Fair the screens would be dismantled and removed, then erected afterwards. In addition, during the dormant months, January through May the screens would be torn down and stored. Hours of operation were reviewed and the Board suggested that the end time of 11:00pm would be consistent with what is permitted for the Fair. Deane commented that due to movies run time that might not be obtainable each night, however the norm would be 11, he would request a cushion of a half hour, 11:30pm for those longer movies. Noted was the start time dilemma when movies have to wait till it is dark enough to begin. It was agreed that from June 1st through September 1st the end time would be 11:30pm.

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Chairman Moriarty lead a discussion relative to the application request for a Conference and Event Facility. The whole Board agreed that by definition the Fair Grounds does not comply with the definition of a Conference and Event Facility. It was stated that the drive-in movie request is another aspect of the Fair Grounds operation and as such a further non-conforming use in the IRA, that long precedes the Bylaw. It would be more in compliance to require a Finding for an alteration of a pre-existing non-conforming use. Therefore, it was a sense of the Board to allow for the drive-in movies as it worked well last year with no incidents reported by Public Safety personnel.

Chairman Moriarty asked if there were any comments from the public. Greg Mellinger stated his appreciation to the Fair and Fiesta Shows, along with the Select Board for providing a safe community outlet for families last year during the pandemic. Deane also added that they employed 17 local high school students and would be increasing that number this year. Select Board Bermudez added that there was nothing but positive community feedback on the great entertainment venue and Select Board support moving forward with the drive-in movies for this year.

Chairman Moriarty made a motion to close the public hearing, seconded by Kristin Palace; motion carried with a roll call vote as follows:

Chairman Bob Moriarty-yes
Clerk Dave Merrill-yes
Member Gregor Smith-yes
Member Dave Moniz-yes
Member Jody Clineff-yes
Alternate Member Kristin Palace-yes

Chairman Moriarty made a motion to approve the issuance of a Finding by the Zoning Board of Appeals for an alteration extension of an existing non-conforming use to allow for the operation of two (2) drive-in screens at the Fair Grounds by Fiesta Shows. Conditions of the Finding are: 1) Validated for 1 year of issuance, 2) Operator is required to be Fiesta Shows, and any change of the operator would require Zoning Board of Appeals approval, 3) Hours of operation would be 5:30pm-11:00pm, except for June 1st-September 1st during which time it would be 5:30pm-11:30pm, so moved by Dave Moniz, seconded by Dave Merrill; motion carried with a roll call vote as follows:

Chairman Bob Moriarty-yes
Clerk Dave Merrill-yes
Member Gregor Smith-yes
Member Dave Moniz-yes
Member Jody Clineff-yes
Alternate Member Kristin Palace-yes

Joint Meeting with Planning Board to discuss the Proposed 2021 Zoning Bylaw Warrant Articles: Chairman Moriarty turned the meeting over to Chairman of the

Planning Board Martha Morrison. Chairman Morrison reviewed the proposed Warrant Zoning Bylaw Articles for the 2021 Annual Town Meeting. The Groundwater Protection was explained that when the Business Highway North District was created the Groundwater Protection District language was not changed to cover other than residential uses. The proposed language corrects this error. Chairman Morrison then reviewed the proposed article to add three (3) lots into the Business Village District. The concept is to add the location of the BoxTop Shop, a land-locked property and the Old Highway Garage, all off the end of School Av to the Business Village District. Chairman Morrison reported that the Planning Board had received a Definitive Subdivision Plan for the Highway Garage to be subdivided from the Fire Station and extend School Avenue. The concept is to add some growth potential as part of the revitalization effort with more space and some opportunities for new development in this area. Lastly, Chairman Morrison explained that the Sign Regulation Bylaw had been reviewed by town counsel, KP-Law, and required an extensive amount of revisions in regards to political signs to bring it into compliance with the law. Jennie Merrill of the Planning Board noted that it would be helpful to speak directly to town counsel to obtain clearer direction. It was agreed that a joint call would be achievable and Dave Merrill was nominated from the ZBA to join in the call. Town Administrator Kevin Harutunian provided the historical background on the future of the Highway Garage. Harutunian noted that there would be a Warrant Article for the disposition of the garage which would allow for something productive in future years at that location. Harutunian commented that there would be a community conversation on this property February 25th, viz ZOOM for all to hear what opportunities could occur. Select Board Chairman Bermudez also added that this is a continuation of the previous community conversations that had occurred last year where over 200 people attended and provide their desires for the downtown are.

Minutes: Chairman Moriarty made a motion to approve the January 26, 2021 minutes as written, seconded by Dave Merrill; motion carried with a roll call vote as follows:

Chairman Bob Moriarty-yes

Clerk Dave Merrill-yes

Member Gregor Smith-yes

Member Dave Moniz-yes

Member Jody Clineff-yes

Alternate Member Kristin Palace-yes

At 8:28pm Chairman Moriarty made a motion to adjourn, seconded by Dave Merrill; motion carried with a roll call vote as follows:

Chairman Bob Moriarty-yes

Clerk Dave Merrill-yes

Member Gregor Smith-yes

Member Dave Moniz-yes

Member Jody Clineff-yes

Alternate Member Jody Kristin Palace-yes

Respectfully submitted,

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Donna C. Rich
Community Development Coordinator

Per the Open Meeting Law, the documents that were either distributed to the Zoning Board of Appeals before the meeting in a packet, or at the meeting were:

1. Agenda
2. Minutes of January 26, 2021
3. 207 Boston Street Request for a Special Permit and Site Plan Review
4. Proposed 2021 Zoning Bylaw Warrant Articles

Approved as written at the April 27, 2021 Zoning Board of Appeals meeting.

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Committee constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Committee as to the completeness or accuracy of such statements.