



CITY OF NORTH ADAMS, MASSACHUSETTS

Planning Board

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**REGULAR MEETING**

**MINUTES**

**July 13, 2020**

**Call to order** 6:00 p.m.

**Chair statement for virtual public hearing**

Chairman Leary read the following statement: 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 limitations on the number of people that may gather in one place, this public hearing of the North Adams Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but the public can listen to this meeting while in progress via teleconference. Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by teleconference.

**Members present virtually** Chairman Michael Leary, Lisa Blackmer, Lynette Ritland Bond, Robert Burdick, Kyle Hanlon, Kayla Hollins, Brian Miksic, Paul Senecal, and Larry Taft

**Members absent**

**Others present virtually** William Meranti – Building Inspector, Nathan McMillian, Bonnie Marks, Anna Farrington, Zachary Feury – Project Coordinator, Nat Karns – Berkshire Regional Planning Commission, Matt Brogan, Tammy Daniels – iBerkshires, Emilee Yawn and Alicia (last name not shown).

**Public hearings new business**

- **Case No: SPA2020-18** Application of Nathan McMillian for property located at 195 Ashland Street. Special permit requested for a change of use to operate a taxi business in a B-1 zone.

Chairman Leary opened the public hearing to Nathan McMillian. Mr. McMillian explained that he is planning to open a taxi business to chauffeur people around.

Chairman Leary inquired about the hours of the operation. Mr. McMillian stated that the hours would be Sunday through Wednesday from 5:00 a.m. – 2:00 a.m. and Thursday through Saturday from 5:00 a.m. – 3:00 a.m.

Chairman Leary requested questions or comments from the board or others on the call. No questions or comments.

Chairman Leary requested a motion to close the public hearing. Member Hanlon made a motion to close the public hearing. Member Miksic seconded the motion. Members Burdick and Senecal abstained. All other members in favor. Motion carried.

- **Case No: SPA2020-19** Application of Emilee Yawn for property located at 46-48 Eagle Street. Special permit requested for a change of use to operate a retail business in a CBD zone.

Chairman Leary opened the public hearing to Emilee Yawn. Ms. Yawn stated that she is planning to open a plant store/flower shop with gifts and a gallery focused on nature and art.

Chairman Leary requested questions or comments from the board. Member Miksic offered a vote of confidence and good luck.

Chairman Leary requested questions or comments from others on the call. No questions or comments.

Chairman Leary requested a motion to close the public hearing. Member Hanlon made a motion to close the public hearing. Member Senecal seconded the motion. All in favor. Motion carried.

- **Case No: SPA2020-21** Application of Erika Bailey for property located at 57 Main Street. Special permit requested to operate a bakery in a CBD zone.

Chairman Leary opened the public hearing to Erika Bailey. Ms. Bailey explained that she plans to open a bakery. Positive comments from the board.

Chairman Leary requested questions or comments from others on the call. No questions.

Chairman Leary requested a motion to close the public hearing. Member Hanlon made a motion to close the public hearing. Member Miksic seconded the motion. All in favor. Motion carried.

### Approval of minutes

- Planning public hearing – June 8, 2020

Chairman Leary requested a motion to approve the minutes of the Planning public hearing for June 8, 2020. Member Hanlon made a motion to approve the minutes. Member Blackmer seconded the motion. Member Miksic abstained. All in favor. Motion carried.

- Regular meeting – June 8, 2020

Chairman Leary requested a motion to approve the minutes of the Planning public hearing for June 8, 2020. Member Hanlon made a motion to approve the minutes. Member Senecal seconded the motion. Member Miksic abstained. All in favor. Motion carried.

### New business

- **Case No: SPA2020-18** Application of Nathan McMillian for property located at 195 Ashland Street. Special permit requested for a change of use to operate a taxi business in a B-1 zone.

Chairman Leary requested a motion to approve. Member Hanlon made a motion to approve. Member Taft seconded the motion. Members Burdick and Senecal abstained. All other members in favor. Motion carried.

- **Case No: SPA2020-19** Application of Emilee Yawn for property located at 46-48 Eagle Street. Special permit requested for a change of use to operate a retail business in a CBD zone.

Chairman Leary requested a motion to approve. Member Blackmer made a motion to approve. Member Senecal seconded the motion. All in favor. Motion carried.

- **Case No: SPA2020-21** Application of Erika Bailey for property located at 57 Main Street. Special permit requested to operate a bakery in a CBD zone.

Chairman Leary requested a motion to approve. Member Hanlon made a motion to approve. Member Senecal seconded the motion. All in favor. Motion carried.

### Other business

- Request from Berkshire Cider Project to update operating hours for property located at 508 State Road.

Chairman Leary opened the meeting to the board. Member Miksic made a motion to accept. Member Hanlon seconded the motion. All in favor. Motion carried.

- Violations at Odds and Ends located at 118 Eagle Street.

Chairman Leary requested a motion to pass to the Building Inspector to begin enforcement. Member Hanlon made a motion to pass to the Building Inspector to begin enforcement. Member Miksic seconded the motion. All in favor. Motion carried.

- Proposed zoning amendments.

Chairman Leary opened the meeting to Zac Feury regarding the proposed zoning amendment in regard to special permit enforcement capabilities of the board. Currently the only method of enforcement is to issue fines. There are a significant number of repeat offenders. The proposed amendment would allow to suspend or possibly revoke a permit depending on documented continual lack of compliance.

Mr. Meranti explained that threats and fines only go so far. They come in to compliance for a short amount of time and then go right back out again.

Mr. Feury explained that the Planning Board would have the ability to revoke, suspend or alter a special permit and or the conditions thereof based on a three-step process. The health inspector or the building inspector would submit an application for revocation, suspension or alteration to the Planning Board. The Planning Board would then hold a public hearing to hear the evidence submitted as part of the application. They would have up to 90 days to make a determination on whether to revoke, suspend, or alter the special

permit in question. If the vote is not held within 90 days, it would be deemed a denial of the application and the special permit would continue unrevoked, unsuspended, and unaltered. Member Miksic clarified that the Planning Board would have no way of calling in to question a permit. Mr. Feury confirmed that the way the amendment is written, the Planning Board or the Zoning Board of Appeals would have to go through the building inspector or the health inspector to initiate the process. Member Miksic explained that with all due respect to the building inspector or the health inspector, that would be the only part that he did not agree with.

Chairman Leary inquired about whether the board, during a discussion of lack of compliance, whether it would satisfy the ordinance the way that it is currently written, for the Planning Board to ask the building inspector to initiate the process. Member Miksic inquired about whether they would be compelled to. Mr. Meranti explained that as long as the evidence warranted it. He couldn't think of an instance where it wouldn't. Chairman Leary explained that if a future building inspector chose not to enforce like the current one, would that put the board back in the position that they started from. Chairman Leary inquired about whether a sentence could be added that stated that the process could be initiated by the health department, the building inspector or the Planning Board. Mr. Meranti stated that he had no objection to that if it could be put in there legally. Chairman Leary requested more research to find out if there is a capability of other ordinances that could be initiated by the appointed authority.

Member Hanlon stated that he was 100% in favor of supporting Mr. Meranti. He is all in favor.

Chairman Leary stated that he would like to wait for Mr. Feury to find an example of wording before scheduling a joint public hearing and report back to the board in August.

Mr. Feury confirmed and turned the meeting over to Nat Karns from the Berkshire Regional Planning Commission to explain the proposed changes to section 5 of the zoning ordinance. Mr. Karns explained that he feels that the city would be well served to rewrite the entire section. He explained that if someone wanted to change a nonconforming use that you don't want it to be a worse use. The current process gives all of the authority to the zoning board and he did not change that. He explained that it has to determine that the change isn't substantially more detrimental than the existing nonconforming use. It doesn't allow for a dimensional non-conformity, those have to be dealt with differently.

Member Miksic inquired about whether this would change the modified zoning laws from a couple of years ago for nonconforming uses that predated zoning. He doesn't want that to change. Chairman Leary clarified that he was referring to a preexisting nonconforming use that is either in continual operation or they're requesting if it's been closed for two years or more, that the law that's been passed extended the ability of the zoning board to grant a waiver from that. Mr. Karns stated that that particular section would not change.

The next piece is nonconforming structures. A nonconforming structure is one that is encroaching in the setbacks or is too high – a dimensional problem. The Zoning Board of Appeals can grant a special permit to reconstruct, extend, alter, or structurally change a nonconforming structure (leaving out one- or two-family residences) as long as it's not substantially more detrimental to the neighborhood than the existing structure was. This is intended to improve the structure without altering it substantially. The change can't increase the degree of non-conformity. That would require a variance as well as the special permit. This lays out the rules and makes it fairly easy to modify the buildings unless there's a substantial detriment to the neighborhood. It's in the city's best interest to encourage reinvestment in its older building stock.

One- and two-family structures may be reconstructed, extended, altered or structurally changed at the determination of the building commissioner as long as it does not increase the nonconforming nature of the structure. In that case, the Zoning Board of Appeals would make a determination.

Mr. Karns explained the abandonment, demolition and non-use changes. The timeline is one year and 364 days. After two years, it loses its status. If it is replaced by a conforming use, it will also lose that protection status.

For reconstruction after fire or other catastrophes, it must occur within two years, on the same footprint or decreasing the degree of nonconformity and can't be enlarged.

The last section is the nonconforming lots. A nonconforming lot (narrow or not enough area) can be altered by dimensional requirements as long as they do not increase or create a new non-conformity.

Chairman Leary requested any questions from the board. Chairman Leary inquired about the timeline for this process as he would like to combine this with the other change to only have one joint public hearing. Mr. Karns and Mr. Feury agreed that they could be done at the same time.

**Adjournment** Motion to adjourn 6:42 p.m.

Respectfully submitted,



Michelle Ells  
Planning Board Secretary