

**Town of Holland, Massachusetts,
Planning Board
Meeting Minutes and Public Meeting Minutes of Monday, November 16, 2020
Approved July 20, 2021**

Members:	Function:	present:
Allen P. Johnson	Chair person	yes
Bettina Schmidt	Secretary	yes
Dori-Ann Ference	Member	yes
Peter Frei	Member	yes
Josh Johnson	Member	yes
Dennis Allard	Associate member	yes

Call to Order: 6:01 pm

Old Business: Proposed Zoning Bylaw changes and additions to be submitted to the town voters during the Special Town Meeting slated for the following evening, November 17.

New Business:

Other Business:

Adjourned: 8:32 pm

This most important meeting was held online on the GoToMeeting.com platform and members of the Board met online. Participants from the general public were also able to call-in with any phone by calling a certain phone number which was published on the agenda to this meeting.

The chair person opened the public hearing at 6:01pm and moved to approve the minutes to the meeting the week before, November 10; Ference 2nd, Allan Johnson (yes), Bettina Schmidt (yes), Dori-Ann Ference (yes), Josh Johnson (yes), Peter Frei abstained. Allan Johnson moved to suspend the public meeting and open the public hearing, Ference 2nd, all in favor.

This public hearing, scheduled by chairman Allan Johnson, for the day before the annual town meeting, was in violation of Massachusetts General Law ("M.G.L.") [chapter 40A, section 5](#), which requires public hearings on proposed changes to the bylaws to be held at least 21 days prior to the annual town meeting.

After an introduction at the beginning an intense discussion between the former chair person, Dennis Allard, and new member Peter Frei ensued. Long-time member Dennis Allard served as the chairperson while the text for the proposed by-law changes and additions were drafted. The voters were going to vote on the proposed by-law changes during the Special Town Meeting slated for the following evening, Tuesday November 17.

Allard's five year term was up for re-election and he chose not to file nomination papers. Frei was elected to fill his position on the Board during the 2020 town elections. Dori-Ann Ference was also a

new member as she was also elected at the same time to serve on the Board. Dori-Ann Ference replaced Cynthia Poirier who resigned earlier.

The most controversial change to the zoning by-laws was the proposed reduction of frontage and acreage for buildable lots from 200 feet down to 100 feet, and from 2 acres down to 1 acre.

Member Frei asked former chair Allard for the reason behind the proposed change. Allard named two reasons. First, according to Allard, the change from 200' down to 100' was necessary to help residents who's properties were nonconforming and therefore were unable to improve their properties. The second reason Allard named was an alleged recommendation by the Pioneer Valley Planning Commission.

First, Frei pointed out that the Board did a survey back in 2015. The survey revealed that the majority of residents who participated in the survey were opposed to the change the proposed bylaw would bring to the town. According to the survey, 78% of residents opposed zoning for higher residential densities, and that only 44% prefer new residential development to occur along existing roads (a copy of said survey is attached to these minutes).

Frei further stated that a reduction of the frontage requirement from 200' down to 100' was already once rejected by the voters at the annual town meeting back in 2017. The proposal of 2017 kept the acreage at 2 acres which would have lead to parcels 100' wide and 800' deep.

Frei made the argument that the fiscal situation would be affected in a very negative way. He argued that according to a report^{1/} by the Department of Revenue ("DOR") about the town of Holland, 60% of all dwellings in Holland were second homes. Most of these homes were located along the shore of Hamilton Reservoir. Properties along the shore of Hamilton Reservoir are assessed at a premium. If the owners of these homes had children, they would only be here during vacation and weekends. This, according to Frei, was responsible for the sound fiscal situation Holland enjoys.

Frei stated that every pupil enrolled in the school system would cost the taxpayer about \$12,000 a year,^{2/} and, according to said report by the DOR, the average property tax bill in Holland was only \$2,645 (FY 2008). Considering the fact that in the Commonwealth of Massachusetts, every house on average produced 0.8 pupils according to the DOR, every new house built would cost the taxpayer on average \$9,600 (0.8 x \$12,000) . Frei pointed out that every new house would create a burden to the taxpayers of about \$7,000 (\$9,600 - \$2,645 = \$6,955).

Long time member Bettina Schmidt who also serves as member of the Board of Selectmen ("BOS") since 2016, and currently serves as the chair of the BOS, disagreed with Frei and claimed that the number was not close to \$12,000, instead the number would only be \$5,000.

Frei pointed out that no additional houses could be built around the lake serving as vacation homes as there is no vacant land available, and that new homes would be away from the lake and be used as year round dwellings generating the average 0.8 pupil per house.

Frei also pointed out that property owners who owned at least two acres and at least 200' of frontage would have to be taxed for an additional buildable lot if the proposal would be accepted by the majority of the voters, and such property owners could be forced to sell such lots in order to be able to afford holding on to the property. According to the law, assessors are obligated to assess properties for the best use possible.

1 The quoted report issued by the DOR can be found at:
<https://www.mass.gov/doc/holland-financial-management-review-october-2008/download>
[Click here!](#) To read the report.

2 The actual number for FY 2019 is \$13,666 according to the Department of Elementary and Secondary Education ("DOE") website:
<https://profiles.doe.mass.edu/profiles/finance.aspx?orgcode=01350000&orgtypecode=5&leftNavID=501&fycode=2019>
[Click here!](#) To see for yourself.

Frei further stated that reducing the frontage requirement would be a bad idea and only serve a few, a few who would personally profit from selling land or profit from ending up with conforming lots after they built homes outside the law. Frei then pointed out that home owners who built their homes in conformance with the zoning bylaws would not need the proposed reduction to the frontage requirement, as their homes would be grandfathered under the Grandfather Clause M.G.L. provides. Pursuant to [Chapter 40A, Section 6](#), once conforming properties would be sheltered for ever from more restrictive zoning by-laws. Frei stated that changing the by-laws to legalize non-conforming lots would defy the purpose of the by-laws and would be contrary to what the majority of residents want. Member Bettina Schmidt is familiar with the survey mentioned above and attached as it was her who emailed copies to participants back on October 11, 2015.

Allard disagreed with Frei and stated that the Grandfather Clause would only protect homes for seven years. Frei responded that Allard's claim would be utter unmitigated nonsense, and that his lack of knowledge about the most important provision of M.G.L. dealing with zoning issues, the Grandfather Clause, would be remarkable.

Well known members of the community, among them Earnest Fancy, Marsha Beall, and others, chimed in and voiced their concerns. Marsha Beall suggested to give the public more time to discuss the far reaching proposal.

Frei went on to insinuate that the ill-conceived proposed change would be in the interest of certain actors who would profit to the detriment of the community without mentioning any names. Allan Johnson, the chair person, admonished Frei for this remark and called him, "out of order." According to member Frei, his microphone was thereafter muted and he was no longer able to speak and participate at the meeting. Member Bettina Schmidt was at the audio controls of the online meeting at the time but claimed later that she did not mute Frei's microphone.

After a lengthy discussion, member Dori-Ann Ference made a motion to table all the articles of the town warrant which proposed changing the frontage and acreage requirements in the zoning by-laws for buildable lots, (article 14 through 20.) Alan Johnson 2nd the motion. In order to vote on Ference's motion to table, Frei disconnected his computer and called in and just in time established a connection to cast his vote; the vote to move to table was unanimously approved.

Short discussion about proposed amendment to the zoning by-law about Medical/Adult Use of Marijuana and adjoining table followed (article 21 and 22). Allan Johnson moved thereafter at 8:30 pm to close the public hearing and re-open the public meeting; Ference 2nd, all in favor.

Allan Johnson made motion to accept article 21 and 22; Schmidt 2nd. Allan Johnson (yes), Bettina Schmidt (yes), Dori-Ann Ference abstained, Josh Johnson (yes), Peter Frei (yes).

Mr. Allan Johnson called to adjourn the meeting at 8:32 pm,; Schmidt 2nd, all in favor.

Respectfully submitted,
Peter Frei, acting secretary

AMENDMENT:

Dennis Allard, Allan Johnson, and Josh Johnson, all resigned and did not participate in any meetings after November 16, 2020. Bettina Schmidt attended the next meeting which was not held until January 26, 2021. During the January 26, 2021 meeting, Frie questioned the sufficiency and legality of the minutes Bettina Schmidt wrote about the public hearing and public meeting of November 16, 2020³/. Bettina Schmidt's minutes below, do not summaries the discussion that took place; all she wrote in version "b" about the meeting which lasted 2 hours and 31 minutes is, "[t]here was much discussion regarding the frontage and acrea [sic] size."

3 For completeness here the minutes Bettina Schmidt wrote about the meeting of November 16, 2020; there are two versions, both versions were attached to the same email I received on January 11, 2021 from Bettina Schmidt. The date on the minutes are wrong. There was no public hearing or public meeting on November 24, 2020; the minutes instead relate to the public hearing and public meeting held on November 16, 2020. There are other errors, to many to mention.

Here is Bettina Schmidt's version a:

Planning Board Meeting Minutes November 24, 2020
6:00 pm

(Remarks about Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law are omitted)

Mr. A. Johnson called the meeting to order at 6:00pm.

Attendance: Mr. A. Johnson, Mr. J. Johnson, Mr. P Frie [sic], Mrs. D Ference, Mrs. B Schmidt

Motion 11242001 [sic]: Mr. A. Johnson made a motion to approve the meeting minutes from November 16, 2020. Mrs. D Forence [sic] seconded. Schmidt – Yes, Ference – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic] – Abstain 4-0-1

Motion 11230202 [sic]: Mr. A. Johnson made a motion to suspend the meeting and go to the Public Meeting Mrs. D Forence seconded. Schmidt – Yes, Ference – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie – Yes 5-0-1

Motion 11230203 [sic]: Mr. A. Johnson made a motion to suspend the meeting and go to the Public Meeting Mrs. D Forence [sic] seconded. Schmidt – Yes, Ference – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic]– Yes 5-0-0 Reconviend [sic] at 8:30

Motion 11230204[sic]: Mr. A. Johnson made a motion to accept the Medical/Adult Use Marijuana and adjoining table. Ms. Schmidt seconded, Ference – Uabstain [sic], Schmidt – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic]– Yes 4-0-1

Motion 11230205 [sic]: Mr. A. Johnson made a motion to adjourn at 8:32 pm, Ms. Schmidt seconded, Ference – Yes , Schmidt – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic]– Yes 5-0-18 0

Respectfully Submitted;
Bettina Schmidt
Secretary

here is Bettina Schmidt's version b:

Planning Board Meeting Minutes November 24, 2020
6:00 pm

(Remarks about Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law are omitted)

Mr. A. Johnson called the meeting to order at 6:01 pm.

Attendance: Mr. A. Johnson, Mr. J. Johnson, Mr. P Frie [sic], Mrs. D Ference, Mrs. B Schmidt, Mr. Allard

According to the open meeting law M.G.L. c.30A, s.22(a) and 940 CMR 29.11(1), the minutes do not require a verbatim record or a transcript, however the law requires the minute to include, among other information, "a summary of the discussions on each subject."

A consensus was reached that Frei should take over as secretary of the Board. Ference's motion to appoint Frei to the secretary position was unanimous, and all three members present voted in favor. It was also agreed that Frei would re-write the minutes to the public hearing and public meeting held on November 16, 2020, to bring them in compliance with the law.

Bettina Schmidt resigned two days after the January 26 meeting, on January 28th. Five days later, on February 3rd, she was not a member of the Board any-longer, she emailed her two versions to the town clerk. The two versions were partially corrected; one version now had the title, "Planning Board Public Hearing Meeting Minutes November 24, 2020, 6:00 pm." She also corrected the miss-spelled names. Remember, she agreed and voted yes on the motion to appoint Frei to the secretary position and that Frei would re-write the minutes. In said email to the town clerk, she wrote, "Here are the meeting minutes. Note they have not been approved by the board. You might want to check with Town Council if it is okay to send. Stacey is checking with them on what we do regarding having no PB. Regards, Bettina."

There was much discussion regarding the frontage and acrea [sic] size.

Motion 11242001 [sic]: Mr. A. Johnson made a motion to table those articles Mrs. D Forence [sic] seconded. Schmidt – Yes, Ference – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic]– Yes 5-0-0

Discussion was held regarding the Medical/ Adult Use Marijuana and Table article.

Motion 11230202 [sic]: Mr. A. Johnson made a motion to close the Public Hearing at 8:30 pm Ms. Schmidt seconded, Ference – Yes , Schmidt – Yes, A. Johnson – Yes, J. Johnson – Yes, Frie [sic]– Yes 5-0-0

Respectfully Submitted;
Bettina Schmidt
Secretary