

# PLANNING BOARD MEETING

Tuesday, February 25, 2025 at 6:00 PM

Town Hall - 41 South Main Street Randolph, MA 02368

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## AGENDA

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Pursuant to the temporary provisions pertaining to the Open Meeting Law, public bodies may continue holding meetings remotely without a quorum of the public body physically present at a meeting location until March 31, 2025. The public is invited to participate in the meeting in person, via telephone or computer.

**A. Call to Order - Roll Call**

**B. Chairperson Comments**

**C. Approval of Minutes**

1. Minutes of 2/11/2025

**D. Public Speaks**

**E. Public Hearings**

1. 6:15 PM - Council Order 2025-001 - EV Charging Stations Zoning Amendment - Chapter 200-23

**F. Old/Unfinished Business**

1. Memorial Parkway (Shaws) appeal to ZBA

**G. New Business**

1. RCMOD Zoning District review of preliminary proposal South Street

**H. Staff Report**

\*Active Subdivision Review

\*Active Project Review

\*Upcoming Projects

1. Randolph Road site visit 2.21.25

2. Subdivision listing

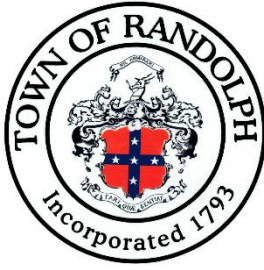
**I. Board Comments**

**J. Adjournment**

Notification of Upcoming Meeting Dates

**File Attachments for Item:**

1. Minutes of 2/11/2025



# PLANNING BOARD MEETING

Tuesday, February 11, 2025 at 6:00 PM

Town Hall - 41 South Main Street Randolph, MA 02368

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## MINUTES

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Pursuant to the temporary provisions pertaining to the Open Meeting Law, public bodies may continue holding meetings remotely without a quorum of the public body physically present at a meeting location until March 31, 2025. The public is invited to participate in the meeting in person, via telephone or computer.

**A. Call to Order - Roll Call**

**B. Chairperson Comments**

**C. Approval of Minutes**

1. Minutes of 1/14/2025

The Board approved the minutes of January 14, 2025, as presented.

**D. Public Speaks**

**E. Public Hearings**

1. 6:15 PM - Powers Drive Subdivision - continuation

Mrs. Tyler stated that the Public Hearing was opened on October 8, 2024 then continued until January 28, 2025 to allow the property owners to seek legal counsel to understand their rights and how to proceed. The Planning Board cancelled the Planning Board meeting of January 28 but Mrs. Tyler opened the public hearing administratively and continued the hearing to this evening. Mr. Guo is currently out of state and asked for a continuation until March 25 at 6:15pm, which has been scheduled.

Chairman Plizga stated that there was a subdivision created, but never constructed. Mrs. Tyler stated that the land was subdivided with a restrictive covenant placed on it that would have restricted the sale of any portion of the property. However, the portion of the property with a structure on it was conveyed separately despite the covenant. The subdivision hasn't been completed and now there is a question of the ownership of the land. Mr. Guo is being taxed on the entire parcel as if it was not subdivided. At least one of the parties has reached out to legal counsel.

Chairman Plizga initially believed they should rescind the subdivision but now the Board should hold off to allow the parties to seek legal counsel to resolve the matter.

## **F. New Business**

### **1. Updates to Watershed & Wetland Protection Overlay Ordinance**

The Planning Director Michelle Tyler provided the Board with an overview on the Watershed & Wetland Protection Overlay District ordinance update. Mrs. Tyler stated that most of ordinance is deemed required by FEMA for homes in a floodplain to be covered by flood insurance. Every 10-15 years, FEMA does a mapping update of the watersheds and updates the flood insurance rate map. Updates began in 2020, but were delayed due to COVID. Randolph is in the Neponset River region.

Mrs. Tyler explained the process FEMA undergoes to notify the public of the changes. Once the final map determination is made, it becomes effective within 6 months. FEMA requires each community to update their zoning ordinance with very specific language. Mrs. Tyler has been working with the FEMA Coordinator to incorporate the language as best as possible. The ordinance must be updated prior to the effective date of July 8, 2025 for the new rate maps.

Mrs. Tyler provided a copy of the draft ordinance to the Board. The Conservation Commission reviewed it and made some edits to the first two pages. Language required by FEMA is highlighted in the document. Chairman Plizga asked about the Flood Plain District being described as an overlay district since it's not in the Town's zoning. Mrs. Tyler stated that it is not a mapped zoning district, but it is a district on the FEMA maps. When the FEMA overlay is applied to the map it will show the various FEMA district zones. It was noted that pages one and two of the document contains language suggested by the FEMA Coordinator, with the remainder of required by FEMA. There was a brief discussion about stormwater flooding and how it differs from flood plains.

The Planning Director stated that anybody who feels they are incorrectly located in a flood zone could file a letter of map amendment with FEMA asking for their removal. Mrs. Tyler stated that you must also provide engineered reports to validate the request to be removed from the flood zone. The request comes to the Town for review and confirmation. If approved, there would be a letter of map change kept on file. Chairman Plizga asked Mrs. Tyler to notify the public of their rights to appeal during the Planning Board public hearing.

## **G. Staff Report**

- \*Active Subdivision Review**
- \*Active Project Review**
- \*Upcoming Projects**

### **Active Subdivision Review**

Chairman Plizga asked Mrs. Tyler to provide the Board with an updated subdivision status list.

Planned Residential Developments (Tiny Homes)

There has been interest in Planned Residential Developments (Tiny Homes). A lot may be eligible if it is at least four times the size of a standard lot which is 48,000 sq ft or larger. Larger parcels potentially have more than one cluster of homes. The size of the homes is limited to one and half stories with parking at the rear of the property with front porches that face the open green space. Mrs. Tyler cited Concord Riverwalk as an example. The Planning Board will review these projects and provide a report to Town Council who is the special permit granting authority.

Appeal to ZBA for Shaw's Plaza Paving Project

The Planning Board appealed the decision of the Building Commissioner citing that the amount of paving constitutes a renovation under the zoning ordinance. The ZBA disagreed with the Planning Board and upheld the Building Commissioner's decision agreeing with the Commissioner that the repaving of a lot is considered a routine repair and not a renovation subject to a tier I review by the Planning Board. Repaving will continue. Member Adjei-Koranteng asked which ordinance the site plan and design review fell under for paving. Mrs. Tyler responded 200-21, subsection 4, which relates to construction requirements for parking areas. Member Adjei-Koranteng asked if the ZBA's decision could be appealed. Mrs. Tyler stated she would consult with outside counsel Noemi Kawamoto so the Board can make a decision on whether or not to appeal ZBA's decision. Chairman Plizga requested that Mrs. Tyler gets a copy of the ZBA minutes along with the decision.

The Board had a brief discussion about various projects underway.

Zoning Recodification Project

The Committee is almost through the first pass of zoning recodification. There will be an April meeting to look at the draft changes. This will begin a series of working meetings followed by a potential joint meeting with Town Council to bring them up to speed with the changes.

**H. Board Comments**

**I. Adjournment**

Upcoming Meeting Dates: February 25th, March 11th, March 25th

The meeting adjourned at 6:48pm.

Motion made by Adjei-Koranteng, Seconded by Taveira to adjourn the meeting.  
Voting Yea: Alexopoulos, Adjei-Koranteng, Plizga, Taveira, Sahlu

**File Attachments for Item:**

1. 6:15 PM - Council Order 2025-001 - EV Charging Stations Zoning Amendment - Chapter 200-23



# PETITION FOR ZONING AMENDMENT

~Clerk's Use~

Date referred to Planning \_\_\_\_/\_\_\_\_/\_\_\_\_

Order # \_\_\_\_\_

**RESPECTFULLY SUBMITTED TO TOWN COUNCIL BY (check one)**

☐ TOWN COUNCIL    ☐ BOARD OF APPEALS    ☒ PLANNING BOARD

☐ SUBJECT LAND OWNER(S)\*

PETITIONER'S NAME Randolph Planning Board

AGENT/REPRESENTATIVE/CONTACT (if any) Michelle Tyler

ADDRESS \_\_\_\_\_

PHONE 781-961-0936

EMAIL mt Tyler@randolph-ma.gov

REASON FOR PROPOSED AMENDMENT (attach additional justification as warranted) \_\_\_\_\_

To amend the Zoning Code to provide regulations for the installation of electric vehicle  
chargers/charging stations and related equipment on residential and non-residential  
properties

PETITIONER'S SIGNATURE \_\_\_\_\_ DATE 01.15.25  
*\*all parties must sign*

**ZONING TEXT AMENDMENT (if applicable)**

ARTICLE(S)/SECTION(S) 200-23

☐ **REQUIRED:** attach proposed ordinance TEXT using exact wording. Use strikethrough to show text to be deleted and bold to indicate text to be added

**ZONING MAP AMENDMENT (if applicable)**

PROPERTY LOCATION/STREET ADDRESS \_\_\_\_\_

CURRENT ZONING \_\_\_\_\_ TOTAL ACREAGE TO BE REZONED \_\_\_\_\_

PROPOSED ZONING \_\_\_\_\_

ASSESSOR'S MAP(S) & PARCEL(S) \_\_\_\_\_

CURRENT USE(S) \_\_\_\_\_

ANTICIPATED USE (if known) \_\_\_\_\_

DESCRIPTION OF EXISTING LAND USES OF SURROUNDING AREA \_\_\_\_\_

☐ **REQUIRED:** attach MAPS clearly showing existing & proposed zoning districts, including parcel lot lines (8.5 x 11" preferred size)

**I. Delete all text in section 200-33 Occupancy Permit**

**II. Add new section 200-33 Electric Vehicle Charging Stations and Battery Exchange Stations**

**A. Definitions.** As used in this section, the following terms shall have the meanings indicated:

**BATTERY EXCHANGE STATION** — A ~~fully automated~~ facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery ~~through a fully automated process~~, which meets or exceeds any standards, codes and regulations set forth.

**CHARGING LEVELS** — The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. Levels 1, 2 and 3 are the most common EV charging levels, and may be described as follows:

- (1) Level 1 – 120 volts
- (2) Level 2 – 240 volts (residential applications) or 208V (commercial applications)
- (3) Level 3 or Direct Current Fast Charging (DCFC) – 400 to 1000 volts

**ELECTRIC VEHICLE (EV)**— Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes:

- (1) A battery electric vehicle (BEV);
- (2) A plug-in hybrid electric vehicle (PHEV);
- (3) A neighborhood electric vehicle (have a max speed of 25 mph, a max load weight of 3000lbs) ; and
- (4) A medium-speed electric vehicle.

**ELECTRIC VEHICLE CHARGING STATION** — A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 or Level 2 charging equipment is permitted outright as an accessory use to any principal use.

**ELECTRIC VEHICLE SERVICE EQUIPMENT (EVSE)** — Structures, machinery and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations and battery exchange stations.

**B. Applicability.**

- (1) Electric vehicle charging station(s) with a Level 1 or 2 charging level shall be permitted in all zoning districts.



- (2) Electric vehicle charging station(s) with a Level 3 or greater charging level shall be installed in a parking lot at a commercial, industrial or municipal destination, or located in a vehicle service station.
- (3) Battery exchange stations are permitted in the BHRD and GBHD Zoning districts with a special permit from the Planning Board and approval by the Randolph Fire Department. This use is specifically prohibited in all residential zones.
- (4) Entities subject to the Americans with Disabilities Act (ADA), Architectural Barriers Act (ABA) shall provide EV charging stations that are accessible to and usable by people with disabilities. This includes state or local government offices, public parks, municipal building parking lots, street parking and the public right-of-way, residential housing facilities provided by a state or local government and public EV charging stations provided by a private entity.

C. Process for review.

- (1) Electric vehicle charging station.
  - (a) New residential construction. If associated with new residential construction, installation of a Level 1 or 2 battery charging station shall be processed in association with underlying permit(s).
  - (b) Retrofitting residential parcels.
    - i. Parcels with one or two-family dwelling units. An electrical permit is required.
    - ii. Parcels with three (3) or more dwelling units. A site plan review by Planning Board and an electrical permit are required
    - iii. Parcels with an Accessory Dwelling Unit (ADU). An electrical permit is required.
  - (c) New commercial, industrial, mixed-use or other non-residential construction. If associated with new construction, installation of a battery charging station shall be processed in association with the underlying permit(s).
  - (d) Retrofitting a non-residential or mixed-use site. If retrofitting an existing non-residential site for a battery charging station(s), an electrical permit and review of a site plan by the Planning Board is required. Additional permits may be required based upon the location of the proposed station(s). Municipal and school properties shall comply with this section.
- (2) Battery exchange station(s). A special permit from the Planning Board is required. Additional approval and permitting is required by Randolph Fire consistent with Massachusetts Comprehensive Fire Safety code 527cmr.

D. Design criteria. The following criteria shall be applied to the location and design of all electric vehicle charging facilities:

- (1) Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric car users but blend into the surrounding landscape/architecture for compatibility with the character and use of the site.

- (a) EVSE shall not be located in buffer strips pursuant to section 200-33 of the Randolph Zoning Ordinance.
- (b) Bollards or other protective measures shall be incorporated into the site plan.
- (2) Size. Where provided, EV spaces should be nine (9) feet by eighteen (18) feet stalls.
- (3) Number. No minimum number of EV charging spaces is required, however, no more than ten percent (10%) of the total number of parking spaces for a site may be designated as EV charging stations.

~~(4) Minimum parking requirements. An EV charging space may count for one-half (1/2) of a space in the calculation for minimum parking spaces that are required pursuant to other provisions of the Zoning Ordinance.~~

- (5) Signage. Each charging station space shall be posted with signage indicating the space is only for EV charging purposes. Days and hours of operations shall be included if time limited or tow-away provisions are to be enforced by the owner. Information identifying voltage and amperage levels or safety information shall be posted.
- (6) Accessible Charging Spaces. EV chargers and spaces designed to serve people who use mobility devices shall be located on an accessible route and should provide:

- (a) A vehicle charging space at least 11 feet wide and 20 feet long.
- (b) Adjoining access aisle at least 5 feet wide.
- (c) Clear floor or ground space at the same level as the vehicle charging space and positioned for an unobstructed side reach.
- (d) Accessible operable parts, including on the charger and connector.
- (e) Use of the International Symbol of Accessibility (ISA) at EV charging spaces is not required. These spaces may be used by EV's without a disability placard. A "use last" sign should be installed to indicate an EV charging space is accessible, but also direct people to use this space only when other charging spaces are occupied or accessibility features are needed.



~~Where charging spaces that are mobility device accessible are installed, they shall count as two (2) standard automobile parking spaces.~~

- (7) Pedestrian Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the

building entrance, the charging equipment shall be located so as to not interfere with accessibility requirements. The site plan of existing parking lot layout and proposed charging stations shall be reviewed and approved.

- (8) Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

DRAFT

**File Attachments for Item:**

1. Memorial Parkway (Shaws) appeal to ZBA

	<p><b>Town of Randolph</b>  Office of  <b>Zoning Board of Appeals</b>  41 South Main Street  Randolph, MA 02368  Ph: 781-961-1519 Fax: 781-961-0937</p>	<p>2025 FEB 1 P 2:54  Arnold Rosenthal  Al Costa  Sean Fontes  Kevin O'Connell  Chris Spears  Clerk  Joe Dunn</p>
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Town of Randolph  
Zoning Board of Appeals  
Findings and Decision  
Appeal Decision  
File # ZBA 01-2025  
Public Hearing February 5, 2025

<b>Applicant Name:</b>	Randolph Planning Board
<b>Applicant Address:</b>	Planning Department 2 <sup>nd</sup> Floor Town Hall Randolph, MA 02368
<b>Property Owner Name in Appeal:</b>	JAMP II REALTY TRUST
<b>Property Owner Address in Appeal:</b>	62 COMMERCIAL WHARF BOSTON, MA 02110-3878
<div style="background-color: black; height: 20px; width: 100%;"></div>	
<u>Agent (if any)</u> Nutter, McLellen & Fish, LLP	
<u>Agent Address</u> 115 Seaport Avenue Boston, MA 02110	
<u>Site Address:</u> 19-141 Memorial Parkway Randolph, MA 02368	
<u>Assessor's Map Location for the Site:</u> 54-B-001	
<u>Date of Application to ZBA:</u> December 17 <sup>th</sup> 2024	

<b>Publication of Legal Notice:</b>	
Published January 22nd/29th	
<b>Date(s) of Public Hearing:</b>	February 5th, 2025
<b>Date of Vote:</b>	February 5 <sup>th</sup> , 2025
<b>Date of Decision:</b>	February 21st, 2025
<b>Date Decision Filed With The Town Clerk:</b>	February 21,2025

**I. General Description:**

Property Location Map /Parcel 54-B-001 / 19-141 Memorial Parkway Randolph, MA 02368

**Subject-ZBA# 01-2025** The Appeal to the Zoning Board of Appeals regarding the Formal Opinion Pursuant to M.G.L. Ch. 40A, section 7 concerning 19-141 Memorial Parkway issued November 27, 2024 by Building Commissioner Ronald Lum

The Planning Board requests the Zoning Board of Appeals: 1. to overturn the decision of the Building Commissioner that Site Plan and Design review is not applicable to the paving work and; 2. to determine that the project is subject to Tier 1 site plan review pursuant to Section 200-21(f) of the Town’s Zoning Ordinances.

The Planning Board’s appeal states: In or around October 8, 2024, the owner of the property commenced milling some portion of a 200,975sf paved surface. That work began without any permits requested from or granted by the Town. Although the Planning Director objected to the work, asserting that the work required a permit, and that Site Plan and Design Review would need to be conducted prior to issuing any permit, the Building Commissioner disagreed and permitted the work to continue. after a portion of the property had already been repaved, the property owner requested permission to mill and repave an additional section of the property and submitted an online permit request, presumably for a paving permit pursuant to Town Ordinance in § 147-8(A), but did not include any supporting documentation. The Planning Director requested additional information. Ultimately a sketch of existing conditions (with insufficient dimensional details) was provided.

The Planning Director, with consent of the Planning Board chairman, declined the permit request asserting that Site Plan and Design Review was required. An attorney on behalf of the property owner then submitted a request to the Zoning Enforcement Officer (who is also the Building Commissioner), requesting an opinion as to whether the proposed repaving activity at the property required any zoning approvals under the Town’s Zoning Ordinances, particularly Site Plan and Design Review.

The Planning Board determined that the project is subject to Site Plan and Design Review pursuant to Zoning Ordinance Section 200-21 Construction Requirements. Subsection F of that section states & quote new and renovated parking areas are to be constructed with the

guidelines in Article XI, Site Plan and Design Review § 200-94B(2)(f) & quote; The Board asserts that milling, grading and repaving that recently took place and is continuing to take place constitutes &quote; renovation.& quote; Therefore the work completed by the applicant and the request to continue such work must be subject to Site Plan Design and review in order to ensure that the work complies with the standards set forth in section 200-94B(2)(f).

## **II ZBA Members Present at the Hearing:**

The following ZBA members were present and sitting at the hearing in this matter:

- Acting Chair Alexander Costa
- Kevin O'Connell
- Christopher Spears
- Sean Fontes
- Amanda George

In addition, the following individuals were also present in the audience at the zoom hearing:

ZBA Clerk Joseph Dunn  
 Planning Director Michelle Tyler  
 Town Councilor Jim Burgess  
 Planning Chair Tony Plizga  
 Building Commissioner  
 Ron Lum,

On Zoom - Hickey, Hucksam, Kawamoto, Silverstein

All applicable provisions of the Massachusetts Zoning Act were complied with.

## **III. Specific Appeal Decision Sought:**

The Planning Board determined that the project is subject to Site Plan and Design Review pursuant to Zoning Ordinance Section 200-21 Construction Requirements. Subsection F of that section states &quote; new and renovated parking areas are to be constructed with the guidelines in Article XI, Site Plan and Design

*Review § 200-94B(2)(f).& quote; The Board asserts that milling, grading and repaving that recently took place and is continuing to take place constitutes &quote; renovation.& quote; Therefore the work completed by the applicant and the request to continue such work must be subject to Site Plan Design and review in order to ensure that the work complies with the standards set forth in section 200-94B(2)(f).*

The Building Commissioner determined “that no Site Plan and Design review is required for this project”. It is that decision that the **Planning Board is appealing**.

#### **IV ZBA Deliberations and Findings.**

1. The distinction between renovation and repair was a concern to the Board .
2. The State law protections for pre-existing structures were discussed.
3. The Randolph Zoning Board of Appeals (ZBA) Agreed with the Building Commissioner determination that the repaving does not constitute a renovation requiring site plan review, as it maintains the existing conditions without adding new features or changing the layout.
4. The ZBA agreed to uphold the Building Commissioner's decision dated November 27, 2024, confirming that site 1 review plan is not applicable for the current paving project
5. The Randolph Zoning Board of Appeals (ZBA) denied the Planning Board's request to overturn the Building Commissioner's decision regarding site plan and design review for the paving work at 19 to 141 Memorial Parkway. By a vote of 4-1.

On denial the roll call vote was:

Chair Alexander Costa Y

Kevin O'Connell N

Barry Reckley Y

Sean Fontes Y

Amanda George Y



**APPEALS:**

Appeals of this Decision, if any, shall be made pursuant to M.G.L. ch.40A, §17 and shall be made within twenty (20) days after the date of filing of this written decision in the office of the Town Clerk.

Note: The Appeal Process and requirements were explained to the General Public by the ZBA Acting Chairman, Mr. Alexander Costa, at the end of the ZBA meeting on September 26, 2022.

**X. RECORDING OF DECISION; LAPSE OF PERMIT:**

Pursuant to M.G.L. ch. 40A, §11:

No variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the variance accompanied by the certification of the city or town clerk stating the fact that the permit granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to act has become final, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

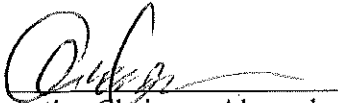
A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

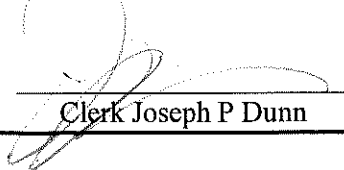
If the rights authorized in this Decision are not exercised within the applicable time limits under M.G.L. ch. 40A, those rights may lapse.

**XI. CERTIFICATION OF FILING:**

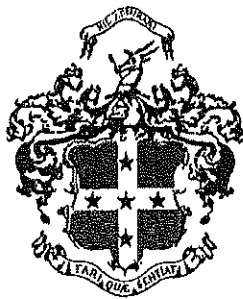
It is hereby certified that that ZBA has complied with all statutory requirements for the issuance of any relief, variances or special permits contained in this Decision and that copies of the Decision and all plans referred to in the Decision have been filed with the Planning Board, Building Department and Town Clerk of the Town of Randolph.

ATTEST: TOWN OF RANDOLPH ZONING BOARD OF APPEALS, ACTING AS THE SPECIAL PERMIT GRANTING AND VARIANCE GRANTING AUTHORITY PURSUANT M.G.L. CHAPTER 40A AND BY AND UNDER THE APPLICABLE ZONING ORDINANCE FOR THE TOWN OF RANDOLPH:

  
\_\_\_\_\_  
Acting Chairman Alexander Costa

  
\_\_\_\_\_  
Clerk Joseph P Dunn

Date Filed with Town Clerk: 02/21/2025



TOWN OF RANDOLPH  
INC. 1793  
December 13, 2024

# Town of Randolph

## OFFICE OF PLANNING BOARD

TOWN HALL  
RANDOLPH, MASS. 02368

2024 DEC 13 P 2:39

RANDOLPH  
TOWN CLERK'S OFFICE

To the Zoning Board of Appeals for the Town of Randolph:

The Randolph Planning Board herewith submits an appeal to the Zoning Board of Appeals regarding the **Formal Opinion Pursuant to M.G.L. Ch. 40A, section 7 concerning 19-141 Memorial Parkway** issued November 27, 2024 by Building Commissioner Ronald Lum. Specifically, the Planning Board appeals the Building Commissioner's determination that the paving activity is not subject to Site Plan and Design Review. It is the Planning Board's position that this project is subject Tier 1 Site Plan and Design Review pursuant to Section 200-21(f) of the Town's Zoning Ordinances.

### A. The Project Background

19-141 Memorial Parkway is a large commercial property at which a number of businesses, including a Shaw's grocery store operate. The current site plan consists of parking spaces which cover approximately 200,975 square feet of paved surface.

In or around October 8, 2024, the owner of the property commenced milling some portion of a 200,975sf paved surface. That work began without any permits requested from or granted by the Town. Although the Planning Director objected to the work, asserting that the work required a permit, and that Site Plan and Design Review would need to be conducted prior to issuing any permit, the Building Commissioner disagreed and permitted the work to continue.

After a portion of the property had already been repaved, the property owner requested permission to mill and repave an additional section of the property and submitted an online permit request, presumably for a paving permit pursuant to Town Ordinance in § 147-8(A), but did not include any supporting documentation. The Planning Director requested additional information. Ultimately a sketch of existing conditions (with insufficient dimensional details) was provided. The Planning Director, with consent of the Planning Board chairman, declined the permit request asserting that Site Plan and Design Review was required.

An attorney on behalf of the property owner then submitted a request to the Zoning Enforcement Officer (who is also the Building Commissioner), requesting an opinion as to whether the proposed repaving activity at the property required any zoning approvals under the Town's Zoning Ordinances, particularly Site Plan and Design Review. The Building Commissioner determined that no Site Plan and Design review is required for this project. It is that decision that the Planning Board is appealing. A copy of the Building Commissioner's determination is

attached hereto as **Exhibit A**.

**B. Planning Board Review of Zoning Ordinance**

On December 10, 2024 during a regularly scheduled meeting, the Planning Board determined that the project is subject to Site Plan and Design Review pursuant to Zoning Ordinance Section 200-21 Construction Requirements. Subsection F of that section states *"...new and renovated parking areas are to be constructed with the guidelines in Article XI, Site Plan and Design Review § 200-94B(2)(f)."* The Board asserts that milling, grading and repaving that recently took place and is continuing to take place constitutes "renovation." Therefore the work completed by the applicant and the request to continue such work must be subject to Site Plan Design and review in order to ensure that the work complies with the standards set forth in section 200-94B(2)(f).

**C. Article XI, Site Plan and Design Review**

The Board asserts that the work is subject to a Tier 1 review as stipulated in the ordinance. Such review would be conducted by the Board's designee, the Planning Director, or, at the request of the Board or the Applicant, conducted by the full Planning Board at a regularly scheduled meeting.

As set forth above, the Planning Board appeals the November 27, 2024 determination of the Building Commissioner that Site Plan and Design review is not applicable to the paving work at 19-141 Memorial Parkway and asserts that the project is subject to Tier 1 site plan review pursuant to Section 200-21(f) of the Town's Zoning Ordinances.

Respectfully submitted on behalf of the Randolph Planning Board,



Michelle R. Tyler  
Director of Planning

Cc: Brian Howard, Town Manager  
Neil McCole, DPW Commissioner  
Noemi Kawamoto, Esq., Brooks & DeRensis



TOWN OF RANDOLPH  
INC. 1793

# Town of Randolph

41 South Main Street  
Randolph, Massachusetts 02368  
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Fax (781) 961-0905  
www.townofrandolph.com

November 27, 2024

**BY EMAIL**

Michael A. Leon, Esq.  
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**RE: Request for Formal Opinion Pursuant to M.G.L. ch. 40A, section 7  
Concerning 19 – 141 Memorial Parkway**

Dear Attorney Leon,

I am writing in response to your letter dated November 15, 2024 in which you request a formal opinion pursuant to M.G.L. c. 40A, section 7, as to whether the proposed repair and repaving activity at 19 – 141 Memorial Parkway in Randolph, Massachusetts, requires any zoning approvals under the Town's Zoning Ordinance, and particularly a site plan approval. The proposed work involves crack sealing and repairing the existing asphalt surface in some areas and resurfacing other portions of the lot with new asphalt. The resurfacing appears to cover about 2/3 of the existing lot, and covers several thousand square feet. My understanding is that the work has also involved the repair/modification of a handicapped access ramp at the front of the structures on that lot.

Your question specifically refers to the crack sealing and repairing of the existing asphalt surface and the resurfacing of 2/3 of the parking lot. My opinions in this letter will focus on that work alone.

You have provided a Site Plan by Peter M. Ditto, Registered Land Surveyor, dated October 2, 2006 showing the current conditions at the property. It shows the painted striping plan for the parking lot, which I understand will be repainted after the paving project is complete in the same manner as shown on the Site Plan. It is your contention that the repaving of parts of the parking lot (about 2/3 of the lot) will not change any aspect of the parking area shown on the Site Plan, including the number and location of parking spaces, or the amount and nature of the impervious surfaces.<sup>1</sup>

You have requested an opinion of the Building Commissioner pursuant to M.G.L. ch. 40A, section 7. That section of the state Zoning Act states, in part: "If the officer or board charged with enforcement of zoning ordinances or by-laws is requested in writing to enforce such ordinances or by-laws against any person allegedly in violation of the same and such officer or board declines to act, he shall notify, in writing, the party requesting

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<sup>1</sup> To the extent that there are elements of the existing conditions at this property that do not conform with zoning, my understanding is that it is your position that those are pre-existing, non-conforming conditions and that this work does not alter that status or trigger any review of that status. I offer no opinion on that contention in this letter, as that issue was not addressed in your request for a zoning determination.

such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request."

I take your request under M.G.L. ch. 40A, section 7 as a request for me to enforce the Zoning Ordinances, in particular the site plan and design review zoning requirements, against the proposed repair and repaving project at 19 – 141 Memorial Parkway in Randolph. In essence, it is a request to enforce the Zoning Ordinances against your own project. My analysis and determinations in response to this request are provided below.

## **I. Zoning Enforcement Powers In The Town of Randolph.**

I am the Building Commissioner of the Town of Randolph and, in that position, I am charged with being the Zoning Enforcement Officer for the Town.

### **A. No Building Permit is Required for This Project.**

As the Building Commissioner and Zoning Enforcement Officer, I have determined that the proposed work does not trigger the requirement for a Builder Permit. Pursuant to § 200-38(D) of the Town of Randolph Zoning Ordinances, Site Plan and Design Review is conducted as part of a Building Permit process. However, no Building Permit is required here, so Site Plan and Design Review is not triggered in this case through that process.

Section 200-38(D) of the Town of Randolph Zoning Ordinances states, in part:

The Building Commissioner, in conjunction with the Planning Board or its designee(s), shall enforce the site plan and design review process as outlined in this chapter. No building permit shall be issued without prior approval of the site plan and architectural design by both the Building Commissioner and the Planning Board or its designee(s)...

Pursuant to the above section, no Building Permit shall be issued without approval of any site plan and architectural design by both the Building Commissioner and the Planning Board (or its designee). However, in this case, there is nothing about the proposed project that triggers a Building Permit requirement. Therefore, I decline to engage in any zoning enforcement action relating to Building Permits under this section of the Town Zoning Ordinances.

### **B. Site Plan and Design Review May Be Triggered Separately Under Section 200-91 of the Town of Randolph Zoning Ordinances.**

Site Plan and Design Review can be directly triggered under the Site Plan and Design Review provisions of the Town of Randolph Zoning Ordinances, specifically Section 200-91 of those Ordinances. The Site Plan and Design Review provisions are enforced by the Building Commissioner, in conjunction with the Planning Board, pursuant to Section 200-38(D) (see above). The Site Plan and Design Review provisions, and other zoning requirements, are discussed further, below.

## **II. Zoning Matters.**

### **A. Site Plan and Design Review Requirements.**

Pursuant to Section 200-91 of the Town of Randolph Zoning Ordinances, Site Plan and Design Review can be triggered by a variety of activities, including the following:

§ 200-91(A)(2) Additional parking and parking lot design.

§ 200-91(A)(3) Modifications to the exterior of a nonresidential building, mixed-use structure or multifamily dwelling, including:

- (a) Changes to color...
- (d) Alterations, demolitions, removal or construction affecting the architectural appearance of the structure(s), signs or the site.
- (e) Changes to existing sign types and faces.

Although it is possible to interpret the Town of Randolph Zoning Ordinances as requiring Site Plan and Design Review under these provisions when there is significant paving and repair to an existing commercial parking lot, I do not believe that the project, as proposed, rises to that level. I do not believe that the project, as proposed, constitutes the creation of "additional parking" or a change in "parking lot design." I also do not believe that the project, as proposed, constitutes a change in color. I do not believe that the project, as proposed, constitutes an alteration, a demolition, a removal or construction affecting the architectural appearance of the site. I do not believe that the project, as proposed, constitutes a change to existing sign types and faces.

As a result, I do not believe that Site Plan and Design Review is triggered by this project and I decline to enforce the Site Plan and Design Review provisions of the Zoning Ordinance with regard to this project.

#### **B. Other Zoning Requirements.**

As you indicated in your letter, there are a variety of Town of Randolph Zoning Ordinance requirements that apply to this proposed project. The main issue in contention is the project's compliance with Site Plan and Design Review requirements, which is discussed above. It is my understanding that the project, as proposed, is in compliance with, or is in the process of coming into compliance with, the other applicable Town Zoning Ordinance provisions, including Stormwater related requirements. I decline to take any enforcement action concerning Stormwater, Building Permit requirements or other Town Zoning requirements at the project at this time. I note that the required Stormwater Assessment is in process and that the project is expected to come into compliance with all applicable Stormwater requirements within a reasonable period of time.

### **III. Matters Governed By The Town's General Ordinances.**

This letter concerns enforcement under the Zoning Ordinances. However, in order to provide a complete picture of the Site Plan and Design Review requirements, I must also address certain provisions of the General Ordinances of the Town of Randolph. These are permitting requirements that are required under local law. However, they are general regulatory requirements, they are not zoning requirements.

#### **A. Paving Permit.**

A paving permit is required for this project pursuant to § 147-8(A) of the Town of Randolph General Ordinances, which states:

No person shall allow any pavement to be placed on any property within the Town of Randolph without first obtaining a permit.

It is the practice of the Town of Randolph to require sign-off from both the Planning Board and the Building Commissioner before the issuance of a paving permit, to ensure that all applicable requirements for the project have been met, including all applicable Site Plan and Design Review requirements. Note that, under the Town Ordinances, the Building Commissioner and the Planning Board have coordinated authority over Site Plan and Design Review.

In this case, the Planning Board has denied the request for sign-off on the Paving Permit because the Planning Board or its designee have determined that Site Plan and Design Review are required for this project pursuant to Section 200-91 of the Town of Randolph Zoning Ordinances. The paving permit applicant has refused to participate in Site Plan and Design Review. The applicant's view is that Site Plan and Design Review is not required under Section 200-91. The paving permit therefore has not been approved by the Planning Board, has not issued, and will be considered denied without the Planning Board's approval.

A paving permit is required for this project and sign-off from both the Planning Board (or designee) and the Building Commissioner is required for the paving permit to issue.

Although other fines and fees may apply if work is commenced without a paving permit, because the requirement for a paving permit is included in the General Ordinances, not in the Zoning Ordinances, I do not have the authority to engage in zoning enforcement with regard to the need for a paving permit and the discussion of the paving permit contained in this section should not be considered a zoning enforcement determination pursuant to M.G.L. ch. 40A, section 7.

#### **B. Excavation Permit.**

I also note that, pursuant to § 83-3 of the Town of Randolph General Ordinances, this project triggers the requirement for an excavation permit. I do not offer any analysis of that permit as that permit is not a zoning permit and that permit has been obtained without any controversy.

#### **Conclusion:**

In summary, I decline to take the zoning enforcement actions described in your November 15, 2024 letter regarding the proposed repair and repaving activity at 19 – 141 Memorial Parkway in Randolph, Massachusetts.

Sincerely,



Ronald Lum  
Randolph Building Commissioner

cc: Brian Howard, Town Manager  
Christine Griffin, Town Attorney  
Michelle Tyler, Town Planner  
Joseph Dunn, ZBA Clerk and Conservation Agent  
Neil McCole, DPW Commissioner



**File Attachments for Item:**

1. Randolph Road site visit 2.21.25











**File Attachments for Item:**

2. Subdivision listing

PROJECT NAME	DATE APPROVED	STREET NAME(S)	CROSS STREET LOCATION	OWNER/DEVELOPER
<i><b>Cygnets Lane/Grove Ave</b></i>	<i><b>12/3/2018</b></i>	Cygnets Lane	Grove Avenue	Karl Wells
<i><b>Dow Street</b></i>		Dow St	Mitchell	Town
<i><b>Druid Hill Estates</b></i>	<i><b>6/13/1905</b></i>	Pett Acres Dr	East Druid Hill	
<i><b>Hampton Court</b></i>	<i><b>3/1/2010</b></i>	EJ Griffin Circle	West St (between Skyview & Sanborn)	Marsha Baxter mjjbax@aol.com  Bob Schoepplein 781-706-6276
<i><b>Holbrook Gardens</b></i>	<i><b>5/21/2018</b></i>	Patterson Avenue (east)	Center Street	Karl Wells

<b><i>Lafayette Estates</i></b>	<b><i>3/20/2018</i></b>	Vine Lane Zanga Way Neary Mountain Lane	Vine Lane	Joe Marotta George Pickering
<b><i>Ledgeview Estates</i></b>	<b><i>12/16/2003</i></b>	E.G. Schaner Circle	Mark Terrace	Kevin Saccone 781-551-0209 (RKS Realty LLC)
<b><i>Ledgewood Estates</i></b>	<b><i>1/19/2005</i></b>	JA McDermott Circle	Marie Way	Alan Paine



<b>Maplewood Estates</b>	<b>11/4/2005</b>	Arredondo Circle	Marion Street	Joe Marotta
<b>Mary Lee Estates</b>	<b>12/11/2006</b>	SJ Skeen Circle	South Main Street	John Greene
<b>Mill Court</b>		N/A	Mill Street	
<b>Morton Road Extension</b>	<b>7/24/2000</b>	Morton	Morton Road	Bob Schoepplein Marsha Baxter
<b>Perry Estates</b>	<b>Mod</b>	Toby Lane	297 Chestnut	Mike Perry
<b>Powers Drive Subdivision</b>	<b>1980</b>	Powers Drive	Collins Ave	Dean Guo

<b><i>Prospect Hill Estates</i></b>	<b><i>1/19/1998</i></b>	Prospect Avenue	Extension of Prospect Avenue	Mike Kmito
<b><i>Richard Estates</i></b>	<b><i>12/17/2013</i></b>	Richard Road	extension of Richard Road	Mike Kmito
<b><i>Roel Court</i></b>	<b><i>6/4/2007</i></b>	Roel Street	Roel Street	Current Owner: Osayomwandor Obazee
<b><i>Spring Estates</i></b>	<b><i>8/7/1989</i></b> <i>Modification</i> <b><i>4/23/07</i></b>	Kelli Road	Alward Drive	Mike Kmito