

TOWN OF MILLBURY, MASSACHUSETTS
The Planning Board

NOTICE OF DECISION
DENIAL OF MULTI-FAMILY SPECIAL PERMIT and
SITE PLAN REVIEW

RICE POND VILLAGE

Applicant:
Whitney Street Home Builders, LLC
118 Turnpike Road, Suite 200
Southborough, MA 01772

Date: February 14, 2022

RECEIVED
TOWN CLERK
2022 FEB 16 PM 2:54
MILLBURY, MASS.

Owner:
McLaughlin Family Living Trust &
John Antaya and Kathleen Mardirosian

Premises Affected in Millbury, MA:
17 Rice Road, Assessor's Map 63, Parcels 75 & 144

Referring to the above application to construct a multi-family development consisting of 46 dwelling units, the Planning Board opened a public hearing on May 10, 2021 that was continued to June 14, 2021, July 12, 2021, August 9, 2021, September 13, 2021 (no testimony taken), September 27, 2021, October 25, 2021 (no testimony taken), November 22, 2021, December 13, 2021, January 10, 2022, and January 24, 2022. All sessions of the public hearing were broadcast live on Millbury Public Access Television, live-streamed on the Millbury Public Access Television website, and live-streamed via the ZOOM video and audio conferencing online platform, allowing members of the public to follow the proceedings of the Planning Board while they were occurring and allowing members of the public to participate in the hearing through real-time active participation, in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20, dated March 12, 2020 and Chapter 20 of the Acts of 2021. After closing the public hearing, the Planning Board at its meeting on February 14, 2022 voted to **DENY** a special permit and site plan review for a multifamily use pursuant to the Town of Millbury Zoning Bylaws, Section 14.11(a), Section 14.3, Section 32.6, and Section 12.46(b). Voted: Richard Gosselin yes, Mathew Ashmankas yes, Bruce Devault abstain, Terry Burke Dotson yes, Paul Piktelis abstain.

The decision of the Board, together with detailed record of its proceedings stating the reasons for the decision, shall be filed within 90 days after the hearing in the office of the Town Clerk. Decision filed with Clerk

February 16, 2022

IMPORTANT: Any appeal from the decision of the Planning Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (M.G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

THE PLANNING BOARD



Mathew Ashmankas, Clerk

TOWN OF MILLBURY, MASSACHUSETTS
The Planning Board

RECORD OF PROCEEDINGS
On Application of Whitney Street Home Builders, LLC

I, Mathew Ashmankas, Clerk of the Planning Board, hereby certify that the following is a detailed record of all its proceedings relative to the application of Whitney Street Home Builders, LLC, for a special permit for a multifamily use under Section 14.11(a), Section 14.3, and Section 32.6 of the Town of Millbury Zoning Bylaws (the “Zoning Bylaws”), and for site plan review under Section 12.4 of the Zoning Bylaws, for the 15.02-acre (+/-) property located at 17 Rice Road (Assessor’s Map 63, Parcels 75 & 144) within the Residential I District (the “Property”).

1. The Applicant desires to construct 46 residential units within 23 multifamily dwelling structures, roadways, and associated improvements at the Property, along with a 5-unit group home permanently restricted as affordable to households whose incomes are less than 65% of area median income, to be located in a new single-family structure located at a separate site (the “Project”).
2. The Property and the Project are shown on a plan entitled “Rice Pond Village Site Plan of Land in Millbury, Massachusetts, Owner: McLaughlin Family Living Trust, 17 Rice Road, Millbury, Massachusetts 01527, Applicant: Whitney Street Home Builders, LLC, One Golden Court, Westborough, Massachusetts”, dated March 26, 2021, amended through November 8, 2021, prepared by Azimuth Land Design, LLC, 325 Donald Lynch Boulevard, Suite 100, Marlborough, MA.
3. On April 13, 2021, the Applicant submitted application materials to the Planning Board, a true copy marked as Exhibit A.
4. A legal ad providing notice of the public hearing on the application, a true copy marked as Exhibit B, was published in the *Millbury Sutton Chronicle*, a newspaper of general circulation in Millbury, on April 22, 2021 and April 29, 2021 and posted by the Town Clerk on the Town bulletin board on April 13, 2021. A notice of the hearing was mailed postpaid to the Applicant, abutters of land within 300 feet of the property line, being the same persons named in the Certified List of Abutters, to the Central Massachusetts Regional Planning Commission, and to the planning boards of every abutting community.
5. On May 10, 2021, the Planning Board opened a public hearing to consider the application and receive comments thereon. With the Applicant’s consent, the hearing was continued to June 14, 2021, July 12, 2021, August 9, 2021, September 13, 2021 (no testimony taken), September 27, 2021, October 25, 2021 (no testimony taken), November 22, 2021, December 13, 2021, January 10, 2022, and January 24, 2022, at which time the Planning Board voted to close the public hearing. All sessions of the public hearing were broadcast live on Millbury Public Access Television, live-streamed on the Millbury Public Access Television website, and live-streamed via the ZOOM video and audio conferencing online platform, allowing members of the public to follow the proceedings of the Planning Board while they were occurring and allowing members of the public to participate in the hearing through real-time active participation, in accordance with the Governor’s Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20, dated March 12, 2020 and Chapter 20 of the Acts of 2021. All five regular members of the Planning Board were present at each session of the public hearing when testimony was taken.

6. The Planning Board relied on the following documents, in addition to the testimony from members of the public presented at the public hearing, in making its decision:

As amended through June 2020	Town of Millbury Zoning Bylaws
As amended through 2020	Millbury Municipal Code
As amended through May 2021	Town of Millbury Rules & Regulations Governing the Subdivision of Land
Stamped received by Town Clerk on April 13, 2021	Application Packet (“ <u>Exhibit A</u> ”)
March 26, 2021, amended through November 8, 2021	Plan entitled “Rice Pond Village Site Plan of Land in Millbury, Massachusetts, Owner: McLaughlin Family Living Trust, 17 Rice Road, Millbury, Massachusetts 01527, Applicant: Whitney Street Home Builders, LLC, One Golden Court, Westborough, Massachusetts”, prepared by Azimuth Land Design, LLC
March 26, 2021, last revised November 8, 2021	Colored plan entitled: “Site Plan of Land at 15 Rice Road in Millbury, Massachusetts”, prepared by Azimuth Land Design, LLC
Undated	Exterior building renderings Plan #4408 and #4410, prepared by HPA Design, Inc.
Undated	Exterior Elevation Drawings
March 26, 2021, last revised November 8, 2021	“Predevelopment Drainage Area Plan at 17 Rice Road in Millbury, Massachusetts”, prepared by Azimuth Land Design, LLC
March 26, 2021, last revised November 8, 2021	“Postdevelopment Drainage Area Plan at 17 Rice Road in Millbury, Massachusetts”, prepared by Azimuth Land Design, LLC
March 26, 2021, last revised November 8, 2021	“Drainage Report for Rice Pond Village, A Proposed Residential Development at Rice Road, Millbury”, prepared by Azimuth Land Design, LLC
March 26, 2021	“Construction Period (Short Term) Stormwater Operation & Maintenance Program”, prepared by Azimuth Land Design, LLC
Undated	“Development Impact Statements”, prepared by Azimuth Land Design, LLC
March 2021	“Traffic Impact Study”, prepared by AK Associates
April 12, 2021	Letter from Azimuth Land Design, LLC RE: Waiver
April 12, 2021	Letter from Azimuth Land Design, LLC RE: Special Permit Application for a multi-family condominium development
April 29, 2021	Letter from Giacopello Family, Yvonne Souto, George L. Jones, Todd A. Juskavitch, Pageau Family, Molino Family, Orrell Family, Ron Pierce, Kathy Leary, John Auger, June Rivelli, O’Connell Family, Nancy Tabor, Peter A Bouthillette, Patricia Austin, Bednar Family, Linda Mayo, Stearns Family, Araujo Family, Boire Family, Mary McCarthy, Mailhiot Family, Ryan Family, Beaudoin Family, Yvonne Beaudoin, Randee Lucia, Renters of 66 South Main Street, Gary Carey, Karen Mueller, Lyle Bouchard, Gingras Family, DerHovanessian

	Family, Eric S. Arthur, McGrath Family, Fatima Essif, Joseph Arsenault, L'Abbe Family, Theresa B. Maillet, Ryan Family, Blake Family, Stachura Family, Stewart Family, LaRocco Family, Allard Family, Deborah Kewley, Mark Tatro, Jeremy Vittori, Nagelschmidt Family, Elizabeth Kotzen, Raymond Magner, Quinn Family, Douglas Johnson, Mathieu Family, Duffy Family, and Dalpe Family
April 29, 2021	Letter from Steven S. Stearns
May 3, 2021	Letter from Susan Josianne A. Foote
	Letter summarizing neighborhood opinions
May 4, 2021	Letter from Stantec Consulting Services, Inc. RE: Traffic Impact Study
May 5, 2021	Letter from Cody & Olivia Mathieu
May 5, 2021	Cover letter for petition
May 6, 2021	WPA Form 3- Notice of Intent
May 7, 2021	Email from Tracey Winner with attachment
May 7, 2021	Town Planner Questions, Comments and Recommendations
May 7, 2021	"Exhibit Plan to Show Relative Elevations and Positions of Units and Trains", prepared by Azimuth Land Design, LLC
May 7, 2021	Letter from Kincasa, Incorporated
May 7, 2021	Letter from Stantec Consulting Services, Inc.
May 10, 2021	Letter from Steven S. Stearns
May 13, 2021	Letter from Yvonne Souto, George L. Jones, Molino Family, McGrath Family, Robert DerHovanessian, Eric S. Arthur, Joseph Arsenault, Gary L'Abbe, Stachura Family, Gingras Family, Orrell Family, Ryan Family, Blake Family, Ron Pierce, Kathy Leary, John Auger, June Rivelli, O'Connell Family, Nancy Tabor, Peter A. Bouthillette, Patricia Austin, Bednar Family, Linda Mayo, Stearns Family, Jennifer Stewart, Mathieu Family, LaRocco Family, Cynthia Jacobson, Kotzen Family, Raymond Magner, Allard Family, Quinn Family, Douglas R. Johnson, Deborah Kewley, Mark Tatro, and Lyle Bouchard
May 18, 2021	Letters from Steven S. Stearns
May 28, 2021, last revised July 7, 2021	"Site Plan of Proposed Improvements to Rice Road at Railroad Crossing in Millbury, MA", prepared by Azimuth Land Design, LLC
June 3, 2021	Letter from Azimuth Land Design, LLC and attached plans entitled "Alternate Plan 1" and "Alternate Plan 2"
June 8, 2021	Email from Steven Venincasa RE: Example of typical project sign
July 8, 2021	Email from Azimuth Land Design, LLC and attached plan entitled "Plan of Proposed Intersection Improvements at Rice Road and South Main Street in Millbury, Massachusetts"
July 12, 2021	Letter from Steven S. Stearns

July 21, 2021	Letter from Steven S. Stearns
July 27, 2021	Letter from Azimuth Land Design, LLC RE: Response to Planning Director review comments
July 28, 2021	Planning Director Questions, Comments and Recommendations
August 5, 2021	Email from Cody Mathieu
August 26, 2021	Email from Fire Chief
September 3, 2021	Photometric Plan, prepared by Azimuth Land Design, LLC
September 3, 2021	Email from Azimuth Land Design, LLC RE: Rice Pond Village – Further investigation as to whether there are wetlands on the railroad boundary and attachment from Goddard Consulting LLC
September 7, 2021	Letters from Azimuth Land Design, LLC RE: Waiver requests
September 9, 2021	Email from Azimuth Land Design, LLC RE: Continuance of September 13 th Public Hearing
September 20, 2021	Letter from Azimuth Land Design, LLC RE: Response to Planning Director, Planning Board and public comments
September 20, 2021	Letter from Azimuth Land Design, LLC RE: Response to Stantec Engineering review comments
September 20, 2021	Email from Azimuth Land Design, LLC RE: Updated submittals
September 21, 2021	Planning Director Questions, Comments and Recommendations
September 21, 2021	Email from Cody Mathieu with attachment
September 27, 2021	Email from Chair of Sewer Commission
October 6, 2021, last revised December 9, 2021	“Rice Pond Village Plan of Offsite Improvements Rice Road and South Main Street in Millbury, MA”, prepared by Azimuth Land Design, LLC
October 12, 2021	Email from Azimuth Land Design RE: Phasing
October 16, 2021	Letter from Stantec Consulting Services, Inc.
October 19, 2021	Email from Azimuth Land Design LLC RE: Sight distances at proposed entrance
October 19, 2021	Letter from National Grid with attachment on electric and magnetic Fields
October 22, 2021	Letter from Cody Mathieu entitled “10/25/2021 Planning Board Meeting – 17 Rice Road”
July 30 – August 4, 1993	Article entitled: “High Tension Do Power Lines Kill? Millbury Takes on the Electric Company”, published by the Worcester Phoenix
October 25, 2021	Email from Azimuth Land Design RE: Continuance to November 22, 2021 meeting
November 2, 2021	Letter from Azimuth Land Design RE: Responses to Stantec’s comments relative to traffic study
November 8, 2021	Drainage Structure Computations prepared by Azimuth Land Design
November 8, 2021	“Catch Basin Drainage Area Plan at 17 Rice Road in Millbury,

	Massachusetts”, prepared by Azimuth Land Design, LLC
November 12, 2021	Letter from Azimuth Land Design RE: Changes to the Site Plan
November 16, 2021	Email from Azimuth Land Design RE: Calculation of Nitrogen & Phosphorus Removal at Rice Pond Village and associated attachment
November 16, 2021	Email from Azimuth Land Design RE: Street Lights and associated attachments
November 16, 2021	Planning Director Questions, Comments and Recommendations
November 17, 2021	Email from Azimuth Land Design RE: Rice Road Improvements
Undated	Cluster Box Units specification sheet
November 17, 2021	Letter from Stantec Consulting Services, Inc.
November 18, 2021	Email from DPW Director RE: Rice Road improvements
November 19, 2021	Letter from Stantec RE: Traffic Impact Study Comment Response
November 19, 2021	Email from Stantec RE: Draft decision with their comments
November 22, 2021	Email from Azimuth Land Design, LLC RE: Stantec review comment in regard to drainage system capacity in storms larger than the 25-year storm
November 22, 2021	Letter from Azimuth Land Design, LLC and attached plan entitled “Rice Pond Village Emergency Vehicle Maneuver Plan at 17 Rice Road in Millbury, Massachusetts”, dated November 8, 2021, prepared by Azimuth Land Design, LLC
November 22, 2021	Letter from Cody Mathieu entitled “Comments on Proposed Development at 17 Rice Road (Version 4)”
December 7, 2021	Letter from Azimuth Land Design, LLC RE: Rice Road Improvements
December 9, 2021	Letter from Terry Burke Dotson
December 13, 2021	Email exchange between G&G RR Services, Inc. and Laurie Connors
December 13, 2021	Email exchange between G&G RR Services, Inc., Azimuth Land Design, LLC and Laurie Connors RE: Railroad’s permitting process for roadway improvements
December 13, 2021	Email from Azimuth Land Design, LLC RE: Response to questions from Charles Hunter of G&G railroad 12-13-2021 with attachments
December 28, 2021	Email from Azimuth Land Design, LLC RE: Plan to Show Various Turning Radii at Intersection of Rice Rd & Providence Rd 12-28-21.pdf with attachment
January 4, 2022	Email from Stantec RE: Plan to Show Various Turning Radii at Intersection of Rice Rd & Providence Rd 12-28-21.pdf with attachment
January 5, 2022	Email from Azimuth Land Design, LLC with attachment entitled: Plan to Show Traffic Improvements At the Intersection of Rice Road and Providence Road in Millbury, MA, dated January 5, 2022
January 6, 2022	Email from G&G RR Services, Inc. with 3 attachments
January 7, 2022	Email from Azimuth Land Design, LLC with attached deed

January 11, 2022	Letter from Planning Director to Genese & Wyoming Railroad Services, Inc.
January 19, 2022	Letter from Cody Mathieu entitled "Proposed Project Rice Road"
January 20, 2022	Letter from Genese & Wyoming Railroad Services, Inc.

7. The Planning Board was mindful of the comments it received as testimony from members of the public during the course of the public hearing on the application.
8. After the public hearing was closed, the Planning Board acted on the waiver requests from the Applicant in accordance with Section 12.44(g) of the Zoning Bylaws, at their January 24, 2022 and February 14, 2022 meetings as follows:
 - a. Subdivision Rules and Regulations, Section 6.7(4)(f): Denied a requested waiver from the requirement that the minimum centerline radii of curved streets shall be one hundred feet (100') for an access street, finding that such minimum centerline radii is necessary to provide access equivalent to that required for single or two-family structures on separate lots, per Section 32.6 of the Zoning Bylaws.
 - b. Subdivision Rules and Regulations, Section 6.7(4)(i): Denied a requested waiver from the requirement for two or more points of access for a development with 20 or more dwelling units to allow for a single means of access as proposed by the Applicant, finding that two or more points of access are necessary to provide access equivalent to that required for single or two-family structures on separate lots, per Section 32.6 of the Zoning Bylaws.
 - c. Subdivision Rules and Regulations, Section 6.7(6): Denied a requested waiver from the requirement that roads serving 20 or more dwelling units shall have a 26-foot-wide traveled way to allow for a roadway serving the Project with a 22-foot width as proposed by the Applicant, finding that a 26-foot wide travelled way is necessary to provide access equivalent to that required for single or two-family structures on separate lots, per Section 32.6 of the Zoning Bylaws.
 - d. Subdivision Rules and Regulations, Section 6.10: Denied a requested waiver from the requirement to install vertical granite curb along the perimeter of the Project's roadway to allow for sloped granite curbing as proposed by the Applicant, finding that vertical granite curbing is necessary to provide access equivalent to that required for single or two-family structures on separate lots, per Section 32.6 of the Zoning Bylaws.
 - e. Subdivision Rules and Regulations, Section 7.5: Denied a requested waiver from the requirement to install a grass strip between the curb and the sidewalk to allow for a sidewalk abutting the curb as proposed by the Applicant, finding that a grass strip between the curb and the sidewalk is necessary to provide access equivalent to that required for single or two-family structures on separate lots, per Section 32.6 of the Zoning Bylaws.
 - f. Zoning Bylaws, Section 12.44(a): Granted a requested waiver from the requirement to submit site plans at a scale of 1"=20'. The site plan is at a scale of 1"=30', finding that such a scale is not necessary based on the size and scope of the project.
 - g. Zoning Bylaws, Section 12.44(c): Denied a requested waiver from the requirement to submit an isometric line drawing, finding that the drawing is necessary based on the size and scope of the project.

Property, significantly increasing the density in the neighborhood and having a detrimental impact upon the character of the neighborhood, contrary to the purposes of Section 22 of the Zoning Bylaws.

b. Section 12.46(b) of the Zoning Bylaws provides that the Planning Board must disapprove an application for site plan review if it is unable to make the written findings required for approval, that that the proposed development is in conformance with the Zoning Bylaws. The Planning Board found that the Project, as proposed, is not in conformance with the Zoning Bylaws for the reasons set forth in #9.a(i), #9.a(ii), and #9.a(iii) above, and the following additional reasons:

(i) The application remains incomplete and fails to furnish adequate information required by the Zoning Bylaws based upon the waiver requests denied by the Board as set forth in #8(f) through #8(h) above.

(ii) The Project's inadequate access and roadway design, as described in #9.a(i) and #9.a(ii) are not in conformance with Section 12.45(l) of the Zoning Bylaws with respect to vehicular and pedestrian circulation and would detract from the use and enjoyment of the proposed buildings and structures and neighboring properties.

(iii) The Project's high density, as described in #9.a(iii) is not in conformance with Section 22 of the Zoning Bylaws as the Project would add 46 new residential units in 23 multifamily dwelling structures on the Property, significantly increasing the density in a neighborhood that currently has relatively low density development, contrary to the purposes of Section 22 of the Zoning Bylaws.

Voted: Richard Gosselin (yes), Mathew Ashmankas (yes), Bruce DeVault (abstain), Terry Burke Dotson (yes), Paul Piktelis (abstain).

MILLBURY PLANNING BOARD

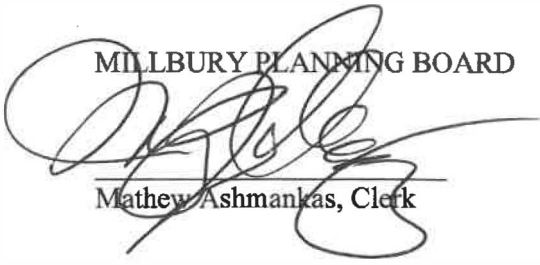

Mathew Ashmankas, Clerk

EXHIBIT A

TOWN OF MILLBURY APPLICATION FOR SPECIAL PERMIT



APPLICANT:

NAME WHITNEY STREET HOME BUILDERS, LLC

STREET ONE GOLDEN COURT CITY/TOWN WESTBOROUGH

STATE MA ZIP 01581 TELEPHONE (508) 847-9060

NAME OF PROPERTY OWNER (if different from Applicant) MCLAUGHLIN FAMILY LIVING TRUST & JOHN ANTAYA

Deed recorded in the Worcester District Registry of Deeds Book 41522 Page 260
8 38877 172

SITE INFORMATION:

STREET AND NUMBER 17 RICE ROAD

ZONING DISTRICT R1 ASSESSOR'S MAP/LOT #(S) 63/75 & 144

LOT SIZE 15.6 AC FRONTAGE 346.09'

CURRENT USE ONE SINGLE FAMILY HOME

PROJECT PLAN INFORMATION:

PLAN TITLE RICE POND VILLAGES SITE PLAN OF LAND

PREPARED BY (name/address of PE/Architect) JAMES TETREAU, PE
AZIMUTH LAND DESIGN, LLC
325 DONALD LYNCH BLVD, SUITE 100
MARLBOROUGH, MA 01752

DATES MARCH 26, 2021

USES FOR WHICH SPECIAL PERMIT IS SOUGHT (refer to the Zoning Bylaw - Use Regulation Table): MULTIFAMILY DWELLINGS

CITE ALL APPROPRIATE SECTIONS OF THE ZONING BYLAW WHICH PERTAIN TO THIS APPLICATION; USE AND SITE: SECTION 22.2

TO THE MILLBURY PLANNING BOARD:

The undersigned, being the Applicant named above, hereby applies for a Special Permit to be granted by the Planning Board and certifies that, to the best of applicant's knowledge and belief, the information contained herein is correct and complete.

Applicant's Signature

Property Owner's Signature (if not Applicant)



Exhibit B

TOWN OF MILLBURY DEPARTMENT OF PLANNING & DEVELOPMENT

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-4754 • FAX. 508 / 865-0857

PUBLIC HEARING NOTICE
Millbury Planning Board

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, the Millbury Planning Board will hold a public hearing on Monday, May 10, 2021 at 7:30 p.m. on the application of Whitney Street Home Builders, LLC, property located at 17 Rice Road, Millbury, MA, for a Multi-Family Special Permit under Millbury Zoning Bylaws, Article 1, Section 14.11(a), Site Plan Review under Zoning Bylaws, Article 1, Section 12.4, and for a Post-Construction Storm Water Management Permit under Millbury Municipal Code, Title 13, Chapter 13.15. The Applicant seeks approval for a multi-family development consisting of 52 duplex units and associated improvements.

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 23, 2020 Order, as amended, imposing strict limitation on the number of people that may gather in one place, this meeting of the Millbury Planning Board will be conducted via remote participation via ZOOM (**Meeting ID: 861 5683 8046**, call-in number 929-205-6099). This meeting will be recorded and streamed by Millbury Public Access Cable Television. It will be available live on public access channels Charter 191 and Verizon 26. It will also be available through [Zoom.us/download](https://zoom.us/download). While no in-person attendance will be permitted, every effort will be made to ensure that the public can adequately access the proceedings and provide comment in real time using technological means.

For more information concerning this application, to view application materials, or to submit written comments in advance of the hearing, contact the Department of Planning & Development at 508-865-4754 or scollins@townofmillbury.net. Application materials may be viewed on the municipal webpage at <https://www.millbury-ma.org/planning-board/pages/projects-permitting-phase> or by appointment in the Department of Planning & Development, Municipal Office Building, 127 Elm Street, Millbury.

Richard Gosselin
Chairman

Millbury Sutton Chronicle: Please publish on April 22, 2021 and April 29, 2021.