

Fairhaven Planning Board  
Minutes  
Tuesday, October 8, 2019 at 6:30 pm  
Town Hall, 40 Center Street  
Fairhaven, Massachusetts

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FAIRHAVEN,  
MASS.

1. **GENERAL BUSINESS:**

- a) Mr. Farrell opened up the public meeting at 6:30 pm and advised the public that the meeting was being televised and recorded.
- b) Quorum/Attendance Mr. Farrell, Ms. Richard, Mr. Hayward, Mr. Haworth, Ms. Melanson, Mr. Lucas, Mr. Malaspino and Mr. Fleurent.  
Town Planner, Paul Foley was also present.
- c) Minutes: September 24, 2019 draft to be reviewed

Mr. Lucas made a motion to approve the minutes from September 24, 2019, seconded by Mr. Fleurent, this motion passed with all members in favor and Ms. Richard in abstention. Discussion about corrections about identification of members on final draft.

d) Planning Board Bills:

- South Coast Media group for announcement of Benny's redevelopment. Mr. Lucas made a motion to pay \$401.80 seconded by Mr. Fleurent this motion passed with all members in favor and Ms. Richard in abstention.
- GCG Associates for Peer Review. Mr. Lucas made a motion to pay \$3,475 seconded by Mr. Fleurent this motion passed unanimously.

- e) Correspondence: Letter from Chief Wire Inspector re 1 Judson Drive.  
Moved to current planning

2. **PUBLIC HEARINGS:**

a) Public Hearings:

- i. **SP19-10: Verizon/Cellco Small Cell Antenna – Fort Street. Special Permit application public hearing for installation of Small Cell Equipment and associated equipment on an existing 33' tall utility pole (Utility pole #43216) located in R.O.W. adjacent to 6 Fort Street.**

Mr. Foley presented a slide show with images, maps, project history and application details regarding the project. There were other poles that were 8 other poles approved throughout the town. This is 4G not 5G. There were also other planning concerns and local oversight that were addressed.

Dan Klasnick, the Verizon representative, gave a brief history of the project and noted that they did an alternative site analysis.

Ann Richard asked if they were willing to share pole with other providers. Dan Klasnick, the Verizon representative, explained that he has no objection with sharing. Its Eversource that has full control. As long as there is no interference Verizon has no issue.

Ann Richard asked about visual impact and color. Verizon representative explained that they are willing to work with the Board.

Chairman Farrell asked if Verizon would allow a competitor to use the same small cell. He then opened the hearing up to public comment.

Karen Valendry expressed concerns about health and regarding the placement of the pole. This is close to a state reservation, Fort Phoenix, which could affect the environment and property values.

Tobey Simmons also believes that rules should be in place for 5G. He believes this is harmful to the environment and to humans. This is a security concern; they can be used as control weapons. For 5G they would need one of these Small Cell Antennas every 12 residences.

Discussion regarding F.C.C. regulations and if the public had health concerns then they are the proper channel for those concerns. Mr. Klasnick noted that Dr. Heas is here and available to discuss and concerns with the RF study or other issues.

Some concerns that were brought up by board members were the size of the canister as well as the visuals (look, height) of the canisters. Ms. Richard said this could also be a social justice issue.

Verizon Representative explained that the size is a standard size and what the company is deploying, it's a required standard size. Verizon Representative asked whether the board had any further questions.

Mr. Hayward and Mr. Farrell were in agreement that Verizon has been more than accommodating with this matter. On the other side of the coin this could become an administrative permit rather than a Special Permit.

Geoff Haworth expressed his concerns regarding the placement of the canisters. Why should the town have to move the light? Verizon should move the location of their antenna. A discussion of why the antenna is so placed ensued.

Tobey Simmons suggested the Small Cell should be painted orange to warn people that it is radioactive.

Wayne Hayward made a Motion to Approve SP19-10: Verizon/Cellco Small Cell Antenna with the standard seven conditions for antennas. The Motion was seconded by Rene Fleurent, this motion passed with six members in favor and two opposed. Those in favor were Mr. Farrell, Mr. Fleurent, Mr. Lucas, Mr. Malaspino, Mrs. Melanson and those opposed were Mrs. Richard and Mr. Haworth.

**ii. SP 19-09: Benny's Renovation. Continued Public Hearing for a Special Permit to remove the front portico of the existing building to create 18 additional parking spaces and divide the 40,290-sf space into several commercial tenant units.**

Mr. Foley provided a presentation with the revisions to the project. The proposal is to remove the 2,705 SF of the front portico of the existing Benny's building to create 18 additional parking spaces and divide the remaining 22,853 sf into several commercial tenant units. The existing three buildings are 42,994 sf and total SF of all 3 is being reduced to 40,289 sf.

They have increased parking stall lengths at the front of the building to 20' long. There are currently 191 spots; Previously proposed 209 spots; Revised plan proposed 193 parking spots. They have increased the size of landscaped planting areas at end of 6 parking bays from 3' to 12' wide; They will be removing and replacing 12

Trees with Red Maple in islands and removing and replacing 2 Trees with Red Maple along Spring St. There will also be an increase to the width of landscaped planting areas along Spring Street and they have added 2 dumpster enclosures. They have provided 2 building facade options with faux gables on the front; one with gables on the ends the other with gables in the middle. They have also provided a pylon sign proposal showing it to be in the same location as the existing.

Discussion regarding the revisions to the project in which the Board members wanted to see gables across the entire front rather than the two gables on the sides that were provided.

There was a question about whether the pylon sign will be a lighted sign. Mr. Taglianetti did not think so but then someone noted a note on the plan says it would be. Mr. Lucas noted that it is a back lit sign.

In response to a question about lighting Mr. Taglianetti said the parking lot will remain the same and there will be downward faced lights on the walls of the building.

Several members said they would like to see the faux gables go all the way across the front. Mr. Taglianetti said they could do that.

Wayne Hayward made a motion to continue SP 19-09: Benny's Renovation to October 16, 2019 for decision. Seconded by Geoff Haworth this motion passed unanimously.

iii. **SP 2019-08: Haskell Solar Farm. Special Permit application public hearing to install an approximately 11-acre ground mounted solar photovoltaic energy facility (SPEF) on an approximately 49-acre farm located at 46 Charity Stevens Lane.**

Mr. Farrell opened up the public hearing.

Paul Foley went over revisions to the project showing where they moved a couple of rows of panels in the eastern section to the southern end in order to cut a few less trees. The Applicant did receive a variance from the ZBA for frontage. Mr. Foley explained that the application says 46-acres but the assessor's records show 49-acres. The 10-11 acres of ground-mounted panels are in two different areas roughly the same size.

Mr. Foley explained that this project did go before Conservation Commission and they were issued an Order of Conditions, one of which is to keep all structures at least 25 feet from any wetlands. Mr. Foley explained how the plans were revised since the Conservation Commission hearing. He noted that one of the Planning Board regulations says there shall be no clear cutting for ground mounted panels. He counted 55 of a total of 205 sections (about 27 percent) are in the area to be cut in the western section and about 22 percent in the other section. Mr. Foley mentioned the 25 ft no- disturb zone and that any changes would have to go back before the Conservation Commission. He counted a total of about 101 sections out of about 415 that appear to be placed in what is now woods which is what he understands as clear-cutting.

Greg Carey from the Clean Energy Collective along with Jay Maroux and Rich Krasinski the engineers from Atlantic Designs were present for the applicant.

Mr. Carey explained that the Haskell family resides on the property and has a landscape nursery business in which they have both commercial and residential customers. They are proposing to lease 11-acres of land that is Chapter 61A land and that the Board of Selectmen have chosen not to exercise their rights regarding the 61-A land. Tonight they are presenting a revised plan. There are three separate tax revenues coming from the project: Roll back taxes from the Chapter 61 A land; Commercial Property tax; and real estate taxes on

commercial property. They will ask for a Payment in Lieu of Taxes (Pilot) for the commercial property tax. There would be additional property taxes based on equipment.

Rich Krasinski said there are currently 21-acres that are clear and that is where the two evenly sized sections of arrays are proposed. Together they cover about 10.3 acres. A fence is proposed surrounding each array; which will both be accessed by existing dirt roads. They will be adding a turn out area near the arrays and energy storage pads. There is minimal grading and minimal stormwater. Stormwater calculations did not require any basins. He explained that only the western side of the property is in the jurisdiction of the Conservation Commission. GCG made some comments that are reflected in the revised plans. This included the 25 ft- no disturb zone. Mr. Carey explained that there are 400 feet between the home and the proposed arrays.

Paul Foley questioned whether the fence is in the setback. Mr. Carey said the arrays are not but the fence is.

John Farrell questioned the number of solar projects that they were involved in in Fairhaven. How many kilowatts were they looking at? Jay Maroux explained the other projects in comparison to this one including the battery storage and how do the utilities work. Jay Meroux provided a brief explanation regarding how the solar storage and inverters work.

There was a discussion regarding the need to cut into a specific area of trees. Mr. Carey called it selective cutting not clear cutting. Wayne Hayward explained that some tree cutting is necessary in some circumstances. Ann Richard explained her concerns regarding removing trees and how important it is to keep trees.

Mr. Foley had noted that the new solar incentives coming out soon will make it less lucrative compared to non-ground mounted solar arrays. Discussion regarding the S.M.A.R.T Program.

Mrs. Melanson stated that she was in agreement with Ms. Richard about the concerns regarding cutting down the number of trees that is proposed. Mr. Foley explained that he sees this as clear cutting. Mr. Lucas said he would like to see less trees cut. Mr. Fleurent stated that approximately 5 % of trees would be cut. Jay Malaspino expressed that he is not as concerned with the cutting of 1.9 acres of trees because it is the equivalent of 4-5 house lots. He is more appreciative of the cleaner energy. Geoff Haworth explained that the Conservation Commission did say they would prefer no trees be cut but that they only had jurisdiction over parts of the eastern array. He would like to see them revise the project to save more trees.

Mr. Lucas questioned the conveying of roads and accessing utilities. Mr. Carey explained there is an Easement on the plans.

Ms. Richard asked why they do not consider dual use arrays that allow you to still put the land into productive use. Jay Meroux explained dual uses of the arrays and that they are two panels in portrait rather than 2-5 in landscape. With dual-use panels will take up twice as much space and produce less power, it will reduce the power produced and reduce the harvest.

Discussion regarding the solar panels and its impact to the surrounding farms. Discussion regarding costs and more developers coming in with arrays.

Discussion whether to put them on the October 16, 2019 agenda. The board at this time expressed their concerns regarding what they would like to see going further with the project. The Applicant requested a continuance until October 16, 2019 at 7:30 pm. Wayne Hayward made a motion to continue October 16, 2019 seconded by Mr. Fleurent, this motion passed Unanimously.

iv. **RZ 2019-01: Crow Island Rezone to MU. Public Hearing review (FHC Section 316-2) to rezone Crow Island in New Bedford/Fairhaven Harbor from a Single Residence (RA) zoned district to the Mixed-Use District (MU).**

Chris Farland Engineer and Attorney Pat Walsh were present representing owner.

Paul Foley explained the proposed project. The Applicant would like to switch the zoning of the property from Residential (RA) to Mixed-Use (MU). Separately they need to get on the warrant. They are simply looking to see if the Planning Board will vote to recommend the rezone to the Town Meeting.

Tim Walsh said that he is present to answer any questions and is hoping for a positive recommendation from the Planning Board. Chris Farland, Engineer from Farland Corp. explained that he is here to present the project to the Board and promote this as a Mixed-Use for both Fairhaven and New Bedford. The First step is to change the use.

Mr. Walsh said they are working hand and hand with many different commissions and boards to get this project started. Mr. Santos has a lot of experience in the hospitality business and is hoping to make this an event venue. They are thinking of building a three-season pavilion. Some of what they want to do is in the flood zone.

Mr. Lucas what utilities they have and how will they be accessed?

Mr. Farland said they have a well and electricity and a leaching pit. The first step would be to install a Septic System. They would most likely use propane. The island housed a radio tower at one point. They understand the timing is tight but the Applicant would like to know that he can do this before purchasing the island.

The Planner's only concern would be that whatever is proposed should be subject to Special Permit review. Wayne Hayward noted that in 20 years the site will probably have a liquor license.

Geoff Haworth made a motion to recommend to Town Meeting that Crows Island be rezoned to Mixed-Use, the Motion was seconded by Cathy Melanson and the Motion passed unanimously.

Ann Richard advised the proponents to be prepared for a lot of questions at Town Meeting.

3. **CURRENT PLANNING:**

- a) Receipt of Plans: None
- b) Review of Plans: DS 2013 – 04: Teves/1 Judson Drive request PB to sign Form E Covenant Release. Wayne Hayward recused himself at this time. Mr. Foley said that the Applicant had produced a letter from the Fairhaven Wire Inspector, John Cottrill, which explained why the new pole was placed where it was and that the utilities are underground from there. The span from the next pole would have been too much and would have had to cross the street.

Ann Richard made a Motion to approve DS 2013 – 04: Teves/1 Judson Drive request for the Planning Board to sign the Form E Covenant Release. The Motion was seconded. Geoff Haworth expressed that he thought that they could have brought the utilities in underground and was against this Covenant Release. Wayne Hayward recused himself at this time. The Motion passed and the Board signed the Form E Covenant Release.

- c) Signing of Plans: None

- d) Town Planner, Paul Foley provided the board with an Update. He had worked with the Police and the DPW to resolve an issue on Hacker Street.

4. **LONG RANGE PLANNING:**

- a) Jeff Lucas noted that he thought we should look at the sign bylaw, especially for signs with LED because they are awful bright. John Farrell agreed the Board should take that up in the New Year.
- b) Wayne Hayward said we should also to look at the regulations on dumpsters and work with the Board of Health on that.

5. **OTHER BUSINESS**