

Fairhaven Planning Board

Minutes

Tuesday, April 29, 2019

Banquet Room, Town Hall

40 Center St., Fairhaven MA 02719

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FAIRHAVEN,
MASS.

Present: Chairperson, John Farrell, Vice Chairperson, Ann Richard, Rene Fleurent, Jeffrey Lucas, Cathy Melanson, John Malaspino, and Wayne Hayward.

Absent: Geoff Haworth

Planning and Economic Development Director Paul Foley was also in attendance.

1. GENERAL BUSINESS:

Chair's Welcome and Media Notification:

Mr. Farrell opened the meeting at 6:30p.m. and notified residents of the media videotaping the meeting.

Quorum/Attendance: Geoff Haworth is absent.

Minutes: None

Planning Board Bills – None.

Correspondence – None.

2. PUBLIC HEARING:

PL19-019 – Continued Public Hearing from April 23, 2019:

The purpose of this continued hearing will be to receive information and public comment on the following application. 1) Historic Site Reuse Special Permit. The applicant, the Board of Selectmen are proposing a Zoning Bylaw amendment.

Attorney Tom Crotty was present along with Town Administrator, Mark Rees. Attorney Crotty reviewed the Historic Site Reuse Special Permit ZBL Amendment Draft dated 4-26-2019 and explained that the Selectman brought this forward because of Rogers school and they would like to see it move forward as the Historic Site Reuse Special Permit. He said he would hope the Planning Board would allow the article for that project to move forward. Mr. Crotty explained the background to why this special session was needed after the first hearing. He said the document was revised to make the Planning Board the Special Permit Granting Authority and it was changed to only apply to municipal buildings. He said if the Town decided they were not going to use a municipal building, then Planning Board could issue a Special Permit to preserve the historic character.

Mr. Crotty also said that the Planning Board may want to expand this to other buildings, perhaps churches in the future for example. He re-emphasized that the Special Permit granting authority would be the Planning Board.

Mr. Crotty then reviewed the article with the Board. He stated the application and fee was not much different from the process they would normally see.

In provision 4 (d), the applicant shall pay a sufficient fee if an architect or engineer needs to be hired by the Planning Board to pay the cost to the Planning Board for an independent professional to review and advise concerning the proposal (for example: architects, engineers or legal fees/attorney.)

In section (7) Issuance of Special Permit, Mr. Crotty stated it read residential use only. He said it may in the future include commercial use if the Planning Board decides to pursue that. Currently, this proposed Special Permit amendment is talking about residential use only.

Under this #7, x and xi are two new provisions, which were reviewed by Mr. Crotty. They say that the applicant shall enter into appropriate covenants or otherwise guarantee timely completion of the proposed work that preserves and maintains the historic character of the eligible building. He said it was not a simple rezoning. Mr. Foley added that most of the changes were made from issues discussed at the Board's previous public hearing on the matter.

Ms. Richard questioned if the current applicant for redevelopment of the Rogers School, which she feels this bylaw was created for, is going to pay the current legal fees. Mr. Rees stated that negotiations were currently happening with the applicant.

Mr. Lucas asked if "professional services" referenced legal/architecture, storm water, etc. to which Mr. Crotty said it did.

Mr. Lucas referred to section 7 (i), and asked why it only referenced multi-family residential use. Mr. Crotty replied that if the underlying use of the historic municipal property is a single family then it would be allowed to become multi-family in order to make preservation of the historic building possible. This amendment would not be rezoning the district; it would be a waiver that the Planning Board could allow through the Special Permit process.

Mr. Lucas questioned why on number 7 (iii), where it states "any addition to the historic building shall be at the rear of the building". He said it may be better to have an addition on the side of the building such as what we did with the High School.

Mr. Foley stated he read it as an intention to preserve the historic character of the building they would be trying to save. The historic character of a building is usually, but not always, considered from the front. Perhaps they could add language that allows an addition on the side of a building as long as it complements the character of the historic building. Mr. Crotty said they could add a catch all, "unless otherwise determined by the Planning Board."

Mr. Lucas stated he was afraid of the loophole they were creating that allow a developer to add lots that aren't part of the historic lot.

Mr. Crotty said that the overall concept is the Town wanting to preserve a historic building. Allowing the developer to create lots on the historic property may be necessary as a give and take to preserve the historic building to make a project financially feasible to a developer.

Mr. Fleurent stated he would like to see historic explained by a "rolling 100 years" vs. 1920, a specific year. Mr. Clotty stated currently the Town makes the decision if a building is 'historically significant'. Mr. Foley stated that we should develop criteria for what we consider to be historically significant. Mr. Fleurent believes that the criteria should be done now and not later, he feels it's like kicking the can down the road and then it never happens.

Mr. Farrell says he supports the document as written today. His concern is about over complicating the process. His concern is that the attorney general might believe they are over reaching if they try to complicate the situation; he doesn't want it to be over regulated.

Mr. Fleurent asked why "Interdepartmental Communication" had to be in the bylaw, as the Planning Board is already doing it. It was agreed that is true but also an important aspect of good planning that absolutely needs to be included.

There was a question about additional fees to applicant if necessary. Mr. Foley commented they may want to add that the applicant shall pay 'an additional fee if necessary'. Mr. Fleurent wanted to see a better set cost for applicants. Mr. Farrell wasn't sure we would be able to do that not knowing what consultants would be needed for a Special Permit application and their cost.

Wayne Hayward stated that this new amendment is 95% different than the first draft and very specific to the use; he said he was generally in favor. Mr. Hayward did suggest the qualified professional architect or engineer should be licensed in Massachusetts and the word "Massachusetts" should be added to 5a). It was agreed. Mr. Crotty noted that the wording is right out of the book for Special Permits.

Mr. Foley reviewed his notes regarding the concerns and issues expressed so far and the potential updates or changes to the draft amendment:

- 2)i: Date of when buildings become historic:

Mr. Lucas stated he was okay with 1920; Ms. Richard stated it only applies to one building and doesn't feel it would matter; Wayne Hayward stated he was okay with the way it's written, and John Farrell stated he was okay as written.

- 4) b) iv: Adding the word, "Massachusetts" before for Architect or Engineer.

Wayne Hayward suggested developing a fee schedule and to add historic site reuse; keep d.

- 5 a) Interdepartmental Communication. Wayne Hayward said that rather than “approval” the amendment should say there was ‘no objection’ by recipient board. Members agreed to make that change.

- 7) a) i): Mr. Foley suggested adding institutional to residential as an allowable use. The language was left as is.

- 7) a) iii): Mr. Foley noted concerns from Mr. Lucas and Ms. Richard regarding where an addition might go on an historic building.

Ms. Richard asked if Oxford School would be able to move forward with this new bylaw. Mr. Foley noted that they were reviewed and approved with a Comprehensive Permit under Chapter 40B so this would not impact that project. Mr. Crotty added that the Town owns it, but it's under agreement. Resident Gary Lavalette stated there were provisions with the Oxford School agreement. Mr. Rees said the historic structure was preserved as part of the review.

Mr. Lavalette said he felt with regards to when is a building historic that the best set year would be 1910 before plumbing was common. He added he was not in favor of the rolling number.

Beth Luey stated that in the previous draft it said historically significant doesn't matter when it's built, it was “either/or”.

Mr. Crotty suggested that if it was by necessity to build an addition on the side it could be allowed by adding the words “unless expressly approved by the Planning Board” at the end. Mr. Lucas suggested he would want something in the rear to also be complimentary to the historic view, just because it's in the back view doesn't mean you won't see it. Mr. Lucas stated it could be done on a waiver.

Mr. Crotty suggested rewriting paragraph to say compatible with same structure as building or expressly waived by the Planning Board

Wayne Hayward asked if we don't need a definition of a historic site reuse. Mr. Crotty said currently historic is 1920 and before and the reuse is to be allowed from dimensional requirements and reuse requirements. Mr. Fleurent his concern with the rolling number concerns and Mr. Farrell stated that six of the seven Planning Board members stated they were not in favor of the rolling number.

Everyone okay with 7a iii as re-written adding “must be complementary with the architecture and must be in the rear unless expressly approved by the Planning Board”.

Mark Rees, thanked everyone for coming back out for this special Planning Board meeting and stated that the Selectmen put this forward and will present it at Town Meeting. He also advised if affirmative tonight it would be handed out at precinct meetings on Wednesday.

Wayne Hayward made a motion to recommend to Town Meeting the adoption of the article "the Historic Site Reuse Special Permit Zoning By-Law Amendment" April 26, 2019 draft with the changes as discussed and was seconded by Cathy Melanson. The motion passed unanimously.

Mr. Hayward asked about the storm water regulations bylaw that was on the warrant for Town Meeting. Mr. Rees the Select Board was trying to work with DEP to note it and pass it over and bring it up at a Special Town Meeting. He said there is an article on the warrant, however there was a discussion happening with DEP tomorrow and that they were hoping, after discussion with DEP, that the seventeen-page document would be included in a separate document available at Town Meeting.

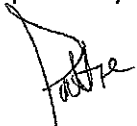
Mr. Rees stated BPW is putting forth the article for Storm Water Regulations. Mr. Crotty said he didn't think the Town Meeting would pursue it. Mr. Hayward stated it would be difficult for the Planning Board to support something they haven't read through. Mr. Crotty stated that the language is exactly the same as Mr. Hayward and Ms. McClees put together except that the Department of Public Works becomes the storm water authority. John Farrell stated that the Planning Board hasn't seen it and needs to review it.

OTHER BUSINESS:

May 22, 2019 – SRPEDD Annual Dinner Meeting - Wayne Hayward, Rene Fleurent, Jeffrey Lucas, Pattie Pacella and Paul Foley will be attending. The meeting will be at Barrett's Fireside Grille in Middleboro.

Cathy Melanson made a motion to adjourn and was seconded by Wayne Hayward. The motion passed unanimously, at 7:54p.m.

Respectively submitted,



Patricia A. Pacella
Recording Secretary