

PLANNING BOARD

Minutes

Tuesday, June 25, 2019 at 6:30 p.m.
Banquet Room, Fairhaven Town hall
40 Center Street, Fairhaven Ma 02719

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1. GENERAL BUISNESS:

Mr. Farrell opened the meeting at 6:30 p.m. and notified the public that the meeting was being televised and recorded.

Attendance: John Farrell, Cathy Melanson, Ann Richard, Jay Malaspino, Jeff Lucas and Wayne Hayward.

Absent: Geoff Haworth and Rene Fleurent.

Town Planner, Paul Foley was also present.

Minutes: May 28, 2019

Ann Richard made a motion to approve the May 28, 2019 minutes, seconded by Wayne Hayward, this motion passed with four in favor and two in abstention.

Planning Board Bills: 1 Bill of \$63.99 for Staples.

Mr. Lucas made a motion to pay \$63.99 to Staples for paper, seconded by Cathy Melanson, this motion passed unanimously.

2. PUBLIC HEARING: None**3. CURRENT PLANNING:****a) Cellco d/b/a Verizon vs. Town of Fairhaven Planning Board.**

Mr. Farrell explained that he had the opportunity to discuss different options with Town Council and that Attorney Crotty explained that there are basically three options. The first option is to do nothing and let it go to court and defend the Planning Board's decision. The second option is for the court to remand the decision to the Planning Board to reconsider the decision and request the Attorney representing Verizon to re-appear before the board and the last option is that the Planning Board vote not to defend the court case.

There was a discussion regarding the 5-2 vote on Verizon and the reasoning for the denial. John Farrell noted that to do the second option one of the tow dissenters would have to make the Motion. Geoff Howarth is not here so it is up to Ann Richard to make the Motion if she is comfortable with that.

Ann Richard cited Chapter 198.29(1) Communication Services Criteria for a Special Permit in the Bylaw. Mrs. Richard then explained her concerns regarding the location and the possibility of creating a nuisance and hazard as well as her concern that they would not be able to share the pole with other carriers. She does not want these popping up on all of the telephone poles in town.

The board discussed the potential conflict of interest regarding Attorney Crotty being an abutter on Fort Street. John Farrell explained that even though Mr. Crotty is an abutter he was cleared by the Board of Selectmen to represent the Planning Board and he has no vote.

Mr. Farrell reiterated the three options, Town Council defend the decision in court, the court remand it back to the Board and re-review it, or nothing be done. Wayne Hayward explained that ordinarily the Applicant would appeal to the Superior Court. In this case they appealed to the Land Court.

Discussion regarding whether which members are able to vote due to being absent when Verizon's proposal was heard. Mr. Hayward asked Mr. Farrell if Mr. Farrell was looking to make a decision on this matter tonight, in which Mr. Farrell answered yes.

Ann Richard expressed her concerns regarding Verizon coming before the board and the potential reconsideration this matter. She might be willing to make a Motion on the second option if they will make a good faith effort at looking at alternatives and co-location possibilities.

Mr. Farrell explained that option two will include a motion to reconsider and essentially Verizon will need to come back before the board in a new public hearing to address concerns that the board has. Wayne Hayward questioned whether Verizon must file a new application if the board votes on reconsideration. John Farrell explained the reconsideration process to the board members.

Ann Richard expressed her concerns about what would happen if Verizon chooses not to accept their reconsideration. Mrs. Richard then read aloud Chapter 198.29(1) (D) Section 1.A [3]: "That the applicant for a special permit has demonstrated a good faith effort to co-locate with other carriers or to façade- or roof-mount the wireless communication facility including in such good faith effort a survey of all existing structures that may be feasible sites for mounting or collocation; and contact with all other licensed carriers for operating in the contiguous communities and the SPGA finds no technically or economically equal collocation is available..."

Wayne Hayward expressed that he is tempted to not to anything at this time. Ann Richard made a motion to reconsider with the assumption that Verizon will make a good faith effort to review alternatives and co-location. Seconded by Wayne Hayward, this motion passed with five members in favor and one in abstention.

b) Review of Seasonal Trailers and Short -Term Rentals issue.

Paul Foley explained that he was asked to join a group in Town Hall that is looking at the issue of seasonal trailers. They asked him to put together a draft zoning bylaw. He explained that in Westport they have specific areas that are designed for trailers and they have a permit and application that addresses all of the concerns her heard that are required for seasonal trailers such as what they do with their septicage, where they get their electricity and make sure they can move if a big storm is coming.

There was some talk about banning them or creating a zone for them. He thought if there were a permit application and guarantees similar to what Westport does it would be a reasonable way of addressing the concerns without outlawing what for some has been a long practice. He noted that the Building Inspector had said there was some concern about people living in a trailer while renting out their homes

on Airbnb. Mr. Foley thought this was the bigger concern and that they need to get more information on the extent to which AirBnB and VRBO and other new online platforms are changing neighborhoods and come up with a way of addressing it.

Hoppy, a well-known resident, expressed some slight concerns regarding trailers during a hurricane but said his main concern is residents renting out their homes nightly. He owns five houses and rents them all on a year round basis at a reasonable rate. For each one he went to the Building Inspector, the Board of Health, the Assessors, the Board of Selectmen, and the Planning Department. If I want chickens or put on a deck I have to get permits. Yet these people don't have to do any of this. If you're a hotel you have to pay a rooms tax. These houses have become businesses. That's a commercial building now. He doesn't want one of these places next to him. There need to be rules and there are none.

Mr. Farrell noted that is why it is on the agenda. It's a new industry similar to Uber using an online platform that allows them to do business to a degree that was not possible before.

Mr. Hayward expressed his belief that these regulations do exist and are already in the bylaw. If someone has a problem with one of these operations, they should file a complaint with the zoning officer.

Mr. Farrell suggested that maybe they should need a business license in order to rent out their homes on sites like Airbnb due to the fact they are making a profit. Wayne Hayward read aloud the section on *Mobile homes* in the bylaw, in which the board discovered that it was prohibited to store or occupy a trailer or mobile home in a flood plain district and that a special permit is needed unless in a business district.

Mr. Foley explained that he will do more research on the matter and will produce a report for the board in August after more information is gathered. Mr. Lucas explained that he has noticed this is becoming an issue in his neighborhood but that Fairhaven is a coastal town with a lot of tourism and that should be taken into consideration. We need to look at this and regulate it but we don't necessarily want to make it impossible.

Hoppy thanked the Board for listening and warned that he would be back. If someone is renting out their house nightly their neighbors ought to know.

c) Grants to pursue.

Mr. Foley explained that he spoke to Don Sullivan from SRPEDD about an EDA grant up to \$30,000 that requires a match to do a Redevelopment Study in the Opportunity Zone.

Mr. Foley did a presentation which displayed the Opportunity Zone in Fairhaven. He explained the importance of the redevelopment studies is that they could develop a new mixed-use zoning to encourage private investment. Mr. Foley explained that he originally obtained this information from the EDC. Mr. Lucas explained that it made sense and is worth perusing.

Wayne Hayward expressed concerns regarding the who determined where the opportunity zones are and noted that we did a Master Plan. Mr. Foley acknowledged that the Town has completed several town wide plans in the last year such as the Master Plan and the Economic Development Plan but that it also called for area plans for certain places such as this. He explained the Opportunity Zone was designated at a Federal level and is viewed as a distressed area and that the investors have been given incentives to invest in those specific areas. He will not forget the other areas of town but that this area along Route 6 and the malls near Alden Road and 240 are in the Opportunity Zone and were cited in the Master Plan. Ann Richard expressed that she believes this to be a great idea. John Farrell explained that he will like to explore this further.

Mr. Foley explained they are also pursuing three grants for Union Warf to be finished. He explained there is a deadline of July 12 for the first one and that the grant was previously denied a few years ago but it may be worth trying again with an emphasis on public safety since the Harbormaster boat is now docked there.

d) Discussion regarding upcoming public hearings:

- I. DS 19-01: Pappas/ Rodrigues Definitive Subdivision on Hiller and Timothy Street for 16 buildable lots and two drainage parcels on a 10.8-acre parcel of land.
- II. DS 19-02: Barboza Single – Lot Subdivision to create one buildable 7.752- acre lot on an 8.07- acre parcel of land off of New Boston Road Map 40, Lot 26.

4. LONG RANGE PLANNING:

a) Review of Board of Selectmen's Goals and Objectives.

Mr. Foley handed out a copy of the Board of Selectmen's revised goals and objectives that pertain to the Planning Board and went over them the board and asked the Board to let him know if there are other priority areas that the Planning Board wants to focus on as well.

5. OTHER BUSINESS:

Wayne Hayward questioned whether any comments were received by the Attorney General with regard to the new zoning bylaws that were accepted at Town Meeting in May. Mr. Foley said that he had not heard anything yet. Ann Richard brought to the boards attention that the Shipyard hasn't done the landscaping for their parking lot yet and that we need follow up on the conditions of the Special Permit.

Paul Foley said that there is a proposed group home in Town that he feels triggers Special Permit Review. He noted that others believe it may be protected by the Dover Amendment as "educational". He said that Massachusetts courts have historically been very liberal with how they interpret "educational".

Wayne Hayward commented on a foundation on Earle Street that he feels may not be what we approved. Paul Foley said that maybe the Planning Board should record the plans rather than the Applicant.

Cathy Melanson made a motion to adjourn at 8:28 p.m. seconded by Jay Malaspino, this motion passed unanimously.