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Planning Board

Tuesday October 9, 2018 at 6:30 p.m.

2019 FEB 13 P 1:14

Banquet Room, Fairhaven Town Hall

40 Center Street Fairhaven Ma, 02719

FAIRHAVEN,
MASS.

1. General Business:

- a) Chairman's welcome and Media Notification.
- b) **Quorum/ Attendance.** Present: John Farrell, Jeffrey Lucas, Rene J. Fleurent, Cathy Melanson, John Malaspino, Geoffrey Haworth, and Ann Richard.
Absent: Wayne Hayward.
Also in attendance was Planning Director Gloria McPherson.
- c) **Minutes:** Ann Richard made a motion to accept the minutes as Amended from September 25, 2018, seconded by Jeffrey Lucas. The vote was unanimous.
- d) **Planning Board Bills:**
 - 1. Fairhaven neighborhood news for \$110.00 for legal ads. Jeffrey Lucas made a motion to approve the bill, Cathy Melanson Seconded the motion. All in favor, vote was unanimous.
- e) **Correspondence:** None

2. Public Hearing:

- a) **PLN-19-002 24 Water Street and 7 Union Wharf – Continued from Sept 25**
Special Permit application by Kevin McLaughlin on behalf of Old South Wharf Realty LLC and Casey Boat Yard LLC, pursuant to Zoning Bylaw Sections 198-29(1) and 198-27(A)(3)(a), New construction that would require a total of five or more parking spaces counting existing and new demand, for a proposal to demolish four existing buildings totaling 34,522 sf and construct three new buildings totaling 28,560 sf including a portable shed, at the property located at 24 Water Street and 7 Union Wharf, Assessors Map 7, Parcels 1 & 11, in the Industrial Zoning District.

John Farrell, Mr. McLaughlin continued from September 25, 2018 application. The applicant asked for continuation. Mr. Farrell asked if there were any changes to staff report and if the application had the chance to meet with the Town Planner?

Gloria McPherson explained that she did meet with the applicant. She stands by her original recommendation in the staff report.

Ann Richards read recommendations that included fourteen conditions.

John Farrell, asked the Town Planner if she was still firm on a hedge planting?

Gloria McPherson explained that planting takes up the least amount of space in the Parking Lot and the applicant could improve safety and aesthetics without losing any parking spaces.

John Farrell , asked about the utilities.

Mr. McLaughlin expressed that the parking lot has been there for many years, he doesn't have a need for the parking waiver. He continued to explain that he understood the spirit of the Bylaw is for new projects not old. He also expressed that he understood the safety concerns that were proposed by the Board. He requested that the Board take his perspective into consideration. Mr. McLaughlin also brought to the board that we had already met with the Town Planner as requested by the Planning Board and redid site plan that included a narrow buffer. Mr. McLaughlin agreed to do put up buffer on side of parking lot . Mr. McLaughlin continued to explain that there were visible buffers currently in Parking Lot(shrubs) from neighbor to Ship Yard But no buffer from street to parking lot. There were trees on trees from sidewalk to Water street.

John Farrell asked Town Planner if she had seen the plan.

Town Planner stated that she did not in fact see it.

Mr. McLaughlin explained the plans on the Map and explains that he excepts all conditions except 5-9 and 11.

Gloria McPherson expresses her concerns of safety pertaining to the existing conditions. Mrs. McPherson recommended to the board a 15th condition.

John Farrell opened public discussion on matter.

Resident Beth Luey expressed her opinion regarding the trees.

Resident Michael Luey stated his opinion on the location .

Mr. McLaughlin expressed that there is hedges on that shield Middle Street.

Ms. Luey expressed that there was nothing along Middle Street.

Gloria McPherson drafted a fifteenth condition to be added to the proposal. The condition allows for flexible use of the parking spaces within the Ship Yard, just not on Lot 52.

John Farrell made a motion , Ann Richard seconded that motion to approve special permit application with the 14 conditions proposed by staff in the staff report and adding condition #15. The vote was unanimous.

The board thanked Mr. McLaughlin for his time.

2. PLN-19-003 14 Plaza Way – to be postponed to the meeting of Oct 23, 2018

Special Permit application by Bohler Engineering on behalf of MCZ Realty LLC, pursuant to Zoning Bylaw Section 198-27(A)(3)(a), New construction that would require a total of five or more parking spaces counting existing and new demand, and Section 198-16, Use Regulation Schedule, Drive Through Window, for a proposal to construct a new, 2,002 sf Dunkin Donuts with drive-through window in an existing parking area, at the property located at 14 Plaza Way, Assessors Map 27, Parcel 13, in the Business Zoning District. The application includes a request to waive sections 198-27(C)(4) and 198-19(B) of the Zoning Bylaw, pertaining to

an existing non-conforming landscape buffer strip and a proposed non-conforming 42-inch fence, both within the front yard setback.

John Farrell explained that the applicant had asked for a continuance.

Gloria McPherson reminded the Board that it was Chair Hayward that asked for a postponement at the last meeting so as to leave more time for discussion of the marijuana bylaw.

Rene Fluerent made a motion to postpone the Public Hearing PLN-19-003 14 Plaza Way to October 23, 2018 at 6:30 p.m. Cathy Melanson seconded the motion. The motion passed unanimously.

c.) Proposed Zoning Bylaw Amendment – Draft Marijuana Zoning Bylaw

The Planning Board will hold a public hearing to hear comments from the public on a proposed Draft Marijuana Zoning Bylaw, to provide for the safe and deliberate of the recreational marijuana law that both protects the health and safety of Fairhaven residents and property owners and respects many of Fairhaven voters who approved the ballot question. This zoning will encompass and replace the existing medical marijuana zoning.

John Farrell explained how there have been changes since last meeting.

Gloria McPherson then explained what the changes were. The state regulations changed the definition of Marijuana retail, it now includes that retailers cannot deliver to consumers, and social consumption was left out among other changes regarding establishments. There was an addition to describe the procedure for revoking Special Permits.

John Farrell asked the board if there was any comments or concerns.

John Farrell asks if the board can go over language under "G" in the Marijuana Bylaw, Page 6 under Special Permit requirements. Mr. Farrell then goes over "E" (Establishments) in the Bylaw.

Jeffrey Lucas asked the board to look under the "Use Regulation" and explained that the board is not recommending any retail at this point and every other establishment must be in the overlay district.

Ann Richard expressed that she wants to enter some correspondence she received into the record.

John Farrell at this time asks the public if anyone has any comments or concerns.

Kathy Delano Precinct 1 asked questions regarding retail, treatment and if the board could clarify information pertaining to the Bylaw. Mrs. Delano also, had concerns of safety.

Karen Vilandry, 34 Huttleston Avenue expressed her opinion regarding the acceptance of marijuana and if the appropriate resources were notified,(fire, police and DPH) Mrs. Vilandry also expressed her concerns regarding the youth.

John Farrell explained that there is a committee formed, Mrs. Melanson is in fact a board member on such a committee and that the Fire chief as well as the Police chief are members of that committee as well.

John Farrell explained that the Planning Board put forward this Bylaw and this use has been passed through voting.

Ann Richard explained that she received supporting emails pertaining to this Bylaw.

Bernie Rodrick Precinct 6, expressed his concerns regarding Bylaw and how he is in support of extending the Moratorium and that the public should have a vote for the moratorium.

John Farrell replied and explained that they have a perfectly good Bylaw and that they need to pass these regulations and continued by explaining the purpose of the Moratorium.

Ann Richard explained to the public that the meeting was to discuss the Bylaw not to discuss the moratorium or a ban.

Marie Carvalho Precinct 2, Oxford Street, voiced her experiences regarding safety and health issues pertaining to Marijuana.

John Farrell instructed the resident to contact the board of Selectmen for Town Ordinances.

Doug Brady Precinct 4. Asked if the Planning Board had consulted any other towns about expired moratoriums and bylaws and if the Planning board compared the bylaw with other towns?

John Farrell explained that the board has consulted and that the first draft was taken from the town of Brookline. Mr. Farrell goes on to explain that the board is restricting this under the bylaw as much as possible.

Gloria McPherson indicated that she had in deed consulted with many towns and looked at other zoning districts and ultimately, working through many public meetings over the course of months, the Planning Board concluded this is how they would like to proceed.

Rene Fluereant stipulated that this is the right thing for Fairhaven, The Board has made the Bylaw, and, in our opinion, it fits Fairhaven.

Doug Brady Precinct 4 expressed that in his opinion retail establishments doesn't fit Fairhaven.

Mr. Isaksen Precinct 4 expressed opinion regarding retail establishments and permits.

Gloria McPherson indicated that it is under the special regulation section.

Tim Kio, 54 Acushnet Rd, Mattapoisett, operates business on 2 Pequod road in Fairhaven, Mr. Kio goes on to thank the Planning Board for Bylaw, and explained medical facility and its processes. He also explained economic impacts, opportunities and its safety procedures.

Kathy Delano reiterated her confusion pertaining to Bylaw, expressed her viewpoint on the extension of moratorium, voting and social consumption.

John Farrell reiterated the fact that there is no social consumption and instructed the resident to review bylaw and explained why the Bylaw was created.

Shane Sher, Hedge Street Precinct 2, explained that he supports the Bylaw. Then he goes on to speak about medical as well as recreational Marijuana.

Joanne Leppanen, 81 State Street, New Bedford but works in Fairhaven. Leppanen explained to the Planning Board that she is a Marijuana patient advocate and Patient educator at BASK. Mrs. Leppanen expressed her support for the Bylaw.

Donald Degagne, Brownell Avenue Precinct 5, indicated support for Bylaw, and went on to explain Marijuana benefits.

Donna Levalley, expressed that she had learned a lot in the meeting regarding Bylaw. Tight regulations are important for the community.

Eric _____ explained that retail environment will reduce black-market and the reduction of cost for Patients. Mr. expressed his opinion pertaining to the benefits on having such facilities.

John Farrell explained that Special Permits will be included.

Kathleen Audette 16 Paul Street expressed her concerns regarding children and the information given to the community.

Mary Fortin, 18 Mill Road Precinct 6, asked the board how long it took to create the Bylaws. Also, a what is the extension of the moratorium going to accomplish? Explained the benefits of the regulations.

John Farrell indicated that the Board has been working very hard on this Bylaw and it has taken months to get to this point.

William Cannaford precinct 1. Expressed his opinion regarding the public comments.

John Farrell instructed Ann Richard to read the letters in support of Bylaw.

There were 13 letters of support of the marijuana bylaw and opposed to an extended moratorium.

Doug Brady Precinct 4 expressed that he was insulted by the community members comments. Mr. Brady continued to question Bylaw. Also, expressed his opinion regarding the extension of moratorium.

Karen Vilandry Precinct 1, questioned Bylaw, specifically section "E". Mrs. Vilandry Continued by emphasizing safety concerns.

Gloria McPherson explained that section "E" mirrors statute and continued to explain Bylaw regarding number of establishments.

Eleanor Chew expressed concerns about a petition that was signed against the Bylaw it should be taken into consideration. Also, concerned that the emails from the non-residents shouldn't be taken into account.

Kathy Delano Precinct 1 asked the board about regulations regarding recreational marijuana.

Bernie Rodrick. Expressed his concerns regarding regulations pertaining to retail establishments. Also, expressed concerns for the youth.

Sertac Ozdogru 46 Grove Street explained that he was an educator and that he supports the Bylaw and its regulations/

Nathan Bekemeier, 354 Huttleston Avenue, Thanked the Board for all their hard work and is in support of the regulations that have been put in place.

John Farrell asked if the board had any comments or concerns.

Ann Richard stated that she had visited BASK and was very impressed with facility overall.

John Farrell asked the board if any members had concerns regarding adopting the last draft that was reviewed by Town Counsel.

Gloria McPherson explained that she is going to make a change to the definition of Marijuana retailer and break it out to three sections as discussed earlier in the hearing.

Jeffrey Lucas expressed his opinion regarding licensing and its process, and how business owners aren't willing to take risks and will be cautious about the business. Also, went into detail pertaining to the differences between retail and medical marijuana. Lastly, spoke about February meeting where the public was in favor of creating zoning rather than trying to ban retail sales.

John Farrell closed the Public Hearing

Cathy Melanson made a motion to accept the Bylaws, seconded by Anne Richard with amendment as discussed. The vote was unanimous.

3.Current Planning

- a) Receipt of Plans: None
- b) Approval of Plans: Form A
 - a. Application by Michael J. Koska, PE, on behalf of Michelle Medeiros for the endorsement of a plan believed not to require approval (ANR) to create two lots where one currently exists, with the new Lot 1 containing the existing dwelling and the new Parcel A, which is not a buildable lot under the Fairhaven ZBL, to be transferred to the adjacent property, at the property located at 59 Gellette Road (Assessor's Map 31A, Parcel 3) in accordance with M.G.L. c. 41, s. 81P.

Gloria McPherson explained that this is a lot division that is not a sub-division, it is taken a portion of Lot 1 peeling that off and adding that to adjacent lot, making that lot conforming where it is currently non-conforming.

John Farrell asked if the board had any questions or concerns.

Cathy Melanson made a motion to endorse the Plan, seconded by Rene Fluerent. The motion passed unanimously.

4.Long Range Planning

Gloria McPherson stated that there was no update at this time.

Ann Richard made a Motion to adjourn, seconded by John Farrell. The vote was unanimous.

Meeting adjourned at 9:33 p.m.

Respectfully submitted,

Shallyn Carreiro