



FAIRHAVEN TOWN CLERK
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TOWN OF FAIRHAVEN, MASSACHUSETTS

PLANNING BOARD

Town Hall · 40 Center Street · Fairhaven, MA 02719

MEETING MINUTES

Tuesday, April 25, 2023 at 6:30 PM

Held both at Town Hall & Remotely via Zoom

1. GENERAL BUSINESS:

a) **Chair's Welcome and Media Notification:** Madame Chair, Ms. Melanson, opened the meeting at 6:32 PM and advised who was present. She also read the revised Open Meeting Law Statement, covering the extension of remote meetings and public access by Governor Healy until March 31, 2025. Additionally, she covered the Zoom accessibility options to provide automatically generated captions for this meeting.

b) **Quorum/Attendance:** Present: Cathy Melanson, Jessica Fidalgo, Patrick Carr, David Braga, Jeff Lucas, Kevin Grant, and Ruy daSilva in the Town Hall Banquet Room.

Absent: Sharon Simmons.

Town Planner, Mr. Paul Foley, was also present.

This meeting was originally planned to be held jointly with the Economic Development Committee. However, as there was not a quorum of EDC members present, Ms. Melanson canceled the EDC meeting.

Afterward, Town Administrator Angie Lopes Ellison was invited to speak to the board. She informed the board that Mr. Foley had tendered his resignation, effective April 28, 2023. With his departure, several long-term planning items will be rendered moot until a new Town Planner is hired. In the interim period, Ms. Ellison herself will fulfill the responsibility of acting as a liaison between the Town and the various affected boards and commissions until she can find a suitable staff replacement.

c) **Minutes: April 11, 2023:** Mr. Lucas made a motion to accept the minutes of April 11, 2023, and was seconded by Mr. Braga. The motion passed unanimously. (7-0)

d) **Board Elections:**

i. **EDC:** Ms. Melanson called for nominations for the EDC Representative. Mr. Lucas nominated the incumbent representative, Ms. Fidalgo. No other nominations were made. **Mr. Lucas made a motion to elect Ms. Fidalgo as the EDC representative and was seconded by Mr. Braga. The election passed unanimously via roll call vote. (7-0)**

- ii. **Rogers School Committee:** Ms. Melanson called for nominations for the Rogers School Committee. She then nominated Mr. Carr. No other nominations were made. **Ms. Melanson made a motion to elect Mr. Carr as the Rogers School Committee representative and was seconded by Mr. Braga. The election passed unanimously via roll call vote. (7-0)**

Mr. Lucas brought up that the election of the representative to the Community Preservation Committee was not included on the meeting Agenda. Ms. Melanson assured that it would be taken up at the next meeting.

- e) **Planning Board Bills:** Mr. Foley noted that there was a bill to be paid, but he would need to retrieve it from his office. As such, the matter was tabled until later in the meeting.
- f) **Correspondence:** None.

2. **CURRENT PLANNING:**

a) **Town Planner Update:**

i. **Fairhaven Economic Development Update**

Mr. Foley gave his presentation on Fairhaven's economic development over the past five years. During that time, commercial vacancies have been cut by 75% and many long-vacant parcels are seeing new developments such as the incoming Chipotle and the conversion of the previous Mazda dealership into a distribution center for Bask.

Key employers are also investing and expanding within Fairhaven, such as the Fairhaven Shipyard and the Acushnet Company, The Northeast Maritime Institute. The transformation of the old Carousel Roller Rink into South Coast Pickleball is a notable success, drawing in local customers as well as players from the Cape and Rhode Island and prompting their expansion and reopening of the onsite mini golf course. Mirasol's upcoming café near the renovated Benny's Plaza is also notable as it will be their new flagship franchise model. Two Ventures Car Wash will open this summer and hopes to provide an environmentally friendly experience.

Beyond these individual businesses, Mr. Foley has also been in contact with several of the plaza owners in town as part of the 40R development. Additionally, the Town has received over \$6 million in grant money for further economic development and new revenue will also be generated via the 3% Community Impact Fee (CIF). The new Building Commissioner, Randy Bassett, will be working to get that program fully up and running.

After covering the broad points, Mr. Foley presented the SRPEDD commercial vacancies map – both the original 2018 map and an updated version as of 2023 – along with a collection of photos of the new businesses.

ii. 40R Overlay District

Mr. Foley presented several photos from the 40R Working Group meetings, showing the preferences in terms of height and design as determined by the visioning workshops. On the Town's 40R webpage [<https://www.fairhaven-ma.gov/planning-economic-development/pages/40r-mixed-use-overlay-planning-district>], he posted the first draft of the zoning by-law, mainly derived from the state's model, along with the first draft of the design standards created by Dodson & Flinker. He hopes that the Board will continue to champion the project and work in tandem with the designers and legal counsel, Adam Costa.

When Mr. Carr inquired how the Board should present this idea to the Town, Mr. Foley covered the benefits of the 40R in terms of allowing plaza owners to build mixed-use commercial space and housing units within the overlay district. While Fairhaven will only be an adjacent community to the newly expanded South Coast Rail Project, the proximity to mass transit will still be beneficial. By creating design standards, there will be limits on how high the developers can go and direction in terms of the look, character, and materials of the new construction as well as the surrounding parking and landscaping. In all, the 40R District helps to meet many of the objectives outlined by the Master Plan.

Mr. Foley then did an overview of the overlay maps, showing the first pass as the different areas and how they are zoned as either Mixed-Use or Substantially Developed and the number of stories allowed from 3.5 up to 7. He has sought the approval and cooperation of all the property owners in the overlay areas, with many of the local owners expressing their support for the project. Regarding the monetary incentives, the State is projected to offer \$1 million when the overlay districts are created and then a further \$3,000 per housing unit constructed. Mr. Foley would like to see the full height allowed in the districts utilized to create a range of housing unit prices by offering ocean-view apartments at the top of the possibly 7-story buildings.

Mr. Foley promised to forward the existing documents to the Board members and then outlined the process of approval for the 40R, including the public hearings at the Select Board, the initial submission to DHCD, the revision and secondary review process, and finally the Town Meeting vote. He would like to also see better utilization of the existing mixed-use districts.

In answer to Mr. Carr's further questions on how best to explain the 40R concept and earn the votes of Town Meeting members, Ms. Ellison once again asked to speak to the board. She explained that the 40R would not go to Town Meeting until next year at the earliest and that as an overlay, the 40R would not conflict with the existing zoning but rather add on to it and create further opportunities for both commercial and residential growth. Given the Town government's request for a tax override, new growth within Town is clearly needed.

Ms. Melanson agreed with her points and then invited Select Board Clerk, Stasia Powers, to

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speak to the Board. She confirmed that a Town Meeting vote would only cover the overlay districts pre-selected by the Town to start.

Mr. daSilva inquired as to the percentage of “low-income” units in the new developments, to which Mr. Foley explained that at least 20% of the units have to meet the affordable housing guidelines. He also outlined the broad support the 40R has garnered within the Town government and the Working Group and the future public hearings can help educate the citizens. Mr. Grant voiced his support for how the 40R will encourage better communication and a deeper partnership with developers and a better reflection of the Town’s local values and character. Mr. Lucas agreed with those points and then went on to outline the differences between low-income subsidized housing and affordable housing based on the local median income and why communicating that distinction is important. Building off that point, Mr. Braga explained how affordable housing helps to both welcome younger workers to Fairhaven as well as allow retirees to continue to live within Town as they have for years. He expects that with the promise of new growth, the concept will be received.

3. LONG RANGE PLANNING:

a) Town Planner Update: Bridge St.; Harbor Plan; Benoit Square; MVP; HMP; Summary

- i. Bridge St.** - Mr. Foley has been working with the BPW, the highway department, consultant group Kimley-Horn, and GCG on the updates to Bridge St, utilizing the \$1 million Transportation Bond Bill (TBB) grant to make improvements between Route 6 to 240. He is seeking a further \$2.5 million from MassWorks to supplement the project with the application due in June and has received feedback on the EOI he submitted earlier.

A survey will be conducted on Bridge St., covering the section from Route 240 to Mill St. with a special focus on the stretch between Alden Rd. and Route 6. Despite having several businesses and restaurants in that area, there are no sidewalks, pedestrian facilities, bike lanes, or drainage. Thus, the focus will be on adding sidewalks and drainage along Bridge St. along with covered bus stops and the possibility of bike lanes.

- ii. Benoit Square** – Mr. Foley had worked in conjunction with Mr. Hayward, SRPEDD, MassDOT, the local police and fire departments, and the North Fairhaven Improvement Association to submit several scenarios to the state to improve the square. SRPEDD has responded with a technical memo, agreeing that a yield going north on Adams St. and elongating the square could be beneficial. However, the state controls the streets involved and the Town is still awaiting a response from MassDOT.

Mr. Foley outlined the various issues in and around the square, including its geometry, parking, signage, centerline delineation, and the need for traffic calming. He also suggested adding a truck exclusion to Sycamore Street and planning for the Route 6 Bridge detours in the years to come. He then presented his preliminary concepts to the board, showing several

concepts for elongating the square, relocating the crosswalk, better separating the streets, and adding a stop or yield.

During the discussion on parking around the square, Ms. Claire Millette asked to speak to the board about her concerns with cars parking along the south side of Main Street causing a hazard. Mr. Will Gardner was also invited to speak about his experience on having attending MassDOT hearings. His suggestion to the board was to focus on what the Town wants from Benoit Square values-wise. If the Town wants the square to be a pedestrian-friendly commercial area, outlining those values to MassDOT will yield better results than presenting purely technical plans, which may be rejected in favor of MassDOT's interpretation of how best to rework the area.

iii. **Sconticut Neck Road/1-Stop for Growth** – Mr. Foley covered the issues with Sconticut Neck Road around the intersections of Manhattan Ave. and Little Bay Rd., particularly the lack of sidewalks. Given the possibility of re-zoning the area for mixed use in the future, traffic calming is a priority. As such, Mr. Foley has put in a letter of interest for a 1-Stop for Growth grant to hire a consultant to help with that process.

iv. **MVP** – The steering committee just had its third meeting with plans for its second public meeting on May 31, 2023, at 6:00 PM. The committee will study the findings of the currently ongoing vulnerability assessment for the Town's critical infrastructure. The assessment uses the State's sea level rise projections to show which areas will be affected which then facilitates the creation of cost assessments of adjusting infrastructure.

Several annual flooding probability maps were shown, each depicting various scenarios based on possible sea level rise. The areas of high vulnerability are Fort Phoenix, Girls Creek/Boys Creek, Sconticut Neck, West Island, Little Bay, and Shaws Cove.

The hope is for the project to be completed by the end of June. There are already plans to apply to another round of MVP grants and create an adaptation plan.

v. **HMP** – Mr. Foley will be putting out an RFP for an update to the Hazard Mitigation Plan, having received a \$35,000 grant to cover that cost. The plan was last updated in 2018 and needs to be updated every 5 years. The plan helps the Town create strategies for various possible hazards and can also be used to help with grant applications.

vi. **Harbor Plan** – The Seaport Economic Council granted the Town and the New Bedford Port Authority \$320,000 to update the Joint Municipal Harbor Plan. As part of that process, Fairhaven needs to approve a \$40,000 match at Town Meeting. Mr. Foley expects that it will take at least 2 years to revise the original 2010 Municipal Harbor Plan. Several updates need to be made to cover the emerging offshore wind industry, the effect the commuter rail will have, the fast ferries to the island, and the effects of sea level rise.

4. PUBLIC HEARINGS:

- a) DS 2022 - 01 - Starboard Drive Definitive Subdivision: Continued From April 11, 2023.
Continued Public Hearing on a proposed 8-lot subdivision on Starboard Drive.**

The applicants for the Starboard Drive Definitive Subdivision appeared before the Conservation Commission during their April 24, 2023 meeting and respectfully requested an continuation to the May 23, 2023 Planning Board meeting.

Mr. Lucas made a motion to postpone the public hearing on DS 2023 - 01 – Lincoln and Jason Subdivision until the May 23, 2023 meeting and was seconded by Mr. Grant.

Ms. Fidalgo informed the board that she would be on vacation on May 23 and was unsure if she would be able to attend the meeting via Zoom, which would result in not enough eligible voting members being present. Mr. Foley suggested planning on the suggested date and then adapting the day of if she was unable to attend.

Mr. Braga and Ms. Melanson pointed out that Mr. Lucas had incorrectly referred to the Lincoln and Jason subdivision while making his motion.

Mr. Lucas rescinded his motion.

Mr. Lucas made a motion to postpone the public hearing on DS 2022 - 01 - Starboard Drive Definitive Subdivision until the May 23, 2023 meeting and was seconded by Mr. Grant.

A discussion over parliamentary procedure took place, explaining how due to not having been members of the board for prior public hearings on this subdivision, Mr. Carr and Mr. daSilva were ineligible to vote on matters relating to it. Other members of the board had already used their single mullins for this hearing, the process of which was explained during the meeting. Mr. Foley suggested to the applicants that they withdraw and resubmit their application in order to allow the new board members to vote.

The motion passed unanimously. (7-0)

- b) DS 2023 - 01 – Lincoln and Jason Subdivision: Seaport Homes LLC (Farland Corporation)
proposed 2-lot Definitive Subdivision and road standard for Map 30A Lots 85M and 85N.**

Ms. Fidalgo read the advertisement for the Public Hearing. The site of the subdivision will be located at Map 30A, Lots 85N and 85M, near the terminus of Route 240 north of Route 6 at the end of Lincoln Drive (an accepted street) and Jason Terrace (an unaccepted street). The proposal is to create two buildable lots and create a road standard by connecting the paper street between Lincoln Drive and Jason Terrace to be known as Rita's Way.

Mr. Foley covered the history of the properties and how over the course of the various updates and renames of the Lots in 1958, 1971, and 1976, they had been set aside as drainage lots each time. In 1985, the Town Planner, Nicholas F. Tangney, and the head of the DPW, Jeff Osuch, outlined all the requirements to make the lots buildable – 4-6 catch basins connected to the State drainage ditch (with 15' maintenance easement), paving and curbing of Paper Street connecting Lincoln and Jason (proposed Rita's Way), landscaping, a drainage system, connecting the 6" water main from Lincoln to Jason. In 1987, a plume of gasoline and fuel oil was found during an environmental Assessment on Lot 85M, having come from a leaking underground storage tank at 200 Huttleston Avenue.

With this in mind, Mr. Foley reached out to the DEP regarding this application, and they recommended a condition to state "Before any activity may take place on the site, a Licensed Site Professional (LSP) must render an opinion with regard to historical reports of contamination to see if any conditions warrant notification to the Department of Environmental Protection (DEP)."

Since receiving the application, Mr. Foley reached out to the other Town Departments for comments. There were no issues from the Fire Department, Police Department, Finance/Treasure/Collector, or the Board of Health.

Conservation and Sustainability noted that the lots are not jurisdictional. While they did notice visible ponding after rain, hydric soils were not observed in the soil samples taken with a handheld soil auger and they noted a monitoring well on the southern lot.

The DPW requested a preconstruction meeting and would require a town-hired inspector to be present when utilities and pavement are installed, all paid for by the developer. Sewer personnel must witness concrete ballast installed in the field at the time of the pump installation and the flushing connection port must have a 12" sewer frame and cover installed over it for safety and access. E-one pumps must be tested by the pump rep on-site with a sewer inspection person to witness, with the passing forms to then be sent to the Fairhaven Board of Public Works. The water department requested that the service at the end of Jason Terrance be relocated so it does not cross under the proposed driveway and that the location of the water main on Rita's way be verified.

The Highway Department had a list of concerns, mostly relating to their request that Rita's Way not be designed as a gravel road as initially proposed, but rather a 20-foot wide paved street. They also took issue with the lack of detail on the following: Where stormwater runoff would go or collect, lines coming off the recharge system not being identified, the type of backfill material around the pipe work or adjacent to structures, information on the water connections and hydrant installation, changes to the tree line and miscellaneous plantings, permanent trenching not being provided for utility work.

For the Planning Department, Mr. Foley agrees that Lot 85M should be reviewed by an LSP before any work is done and that the water monitoring well on that property should be dealt with. The engineer must also submit documentation, stamp, and certify that the design meets the DEP Stormwater Management Regulations per § 322-26.B(1). He would also like to see a 6-foot fence installed and street trees planted at the back of the property to create a buffer from Route 240 and would like some of the existing trees to remain.

While the board was reviewing photos of the lots, Mr. Christopher L. Amaral of 8 Lincoln Dr., requested to speak. He is a long-time resident and has observed both the drainage issues with the properties and how numerous prospective buyers have been denied building on these lots. He also had concerns about the possibilities of protected species living in the area as well as contamination lingering in the soil. Additionally, he did not receive notification of this public hearing despite being a direct abutter. The board thanked him for bringing forth his concerns and would seek to investigate the lack of notification.

Mr. Christian A. Farland, the engineer for the project, was invited to speak via Zoom. A preliminary plan was sent to the Board and Town for review and then adjusted before this application based on the received feedback. Having received further requests from the DPW and the Highway Department, they plan to address all the issues previously cited. The firm spoke to an LSP from Common Sense Environmental who will inspect the site. He cited the lack of a roadway as the main reason why these properties have never been developed, but his firm would be able to handle the costs and logistics of constructing one. The development would be beneficial to the neighborhood as it would add turn-around access for emergency vehicles and a new fire hydrant.

The change from a gravel road to a paved street will create additional considerations for handling drainage and runoff in the area, but it should be manageable. Given that there would only be two houses built in this subdivision, Mr. Farland requested that they be allowed to follow the minimum 16-foot road width requirements. He also agreed to the requests for a fence and increased street trees and noted that the only lights added would be small yard lights to help with illumination.

When Mr. Grant inquired about the Highway Department's request for a change from a gravel road to a paved street, Highway Superintendent Joshua Crabb requested to speak to the Board via Zoom. He cited the issues with maintaining gravel roads and would prefer paved streets for their easier maintenance and would accept a 16-foot paved road. Regarding the drainage concerns, he would like the state to be contacted about the change in drainage capacity to ensure their support of the project. He offered to meet with the applicant as needed to help iterate on and improve the plans for this project. On the possibility of contaminated soil, Mr. Foley suggested a new test be done as part of the LSP's inspection of the property prior to the start of construction.

Mr. Braga asked Mr. Farland if the change from gravel to pavement would affect the sheet flow of the site. Mr. Farland first agreed with Superintendent Crabbs on the maintenance differences and then covered his concerns with the logistics of adding catch basins, which he would discuss with the Highway Department.

Mr. Lucas inquired if gas hook-ups would be available on the proposed Rita's Way and Mr. Farland promised to investigate that possibility. Mr. Lucas then asked if the utilities would be underground. Currently, there are utility poles owned by Eversource in the neighborhood so any additional poles would be placed by them. As to the houses marked on the plans, they would be built as part of this development, though the proposed locations on the current plans may be adjusted as revisions are made.

Mr. Lucas also agreed with paving the road but then asked how its addition may affect the drainage of the properties at the ends of Lincoln Dr. and Jason Terrance. Mr. Farland suggested the creation of a swale to help with the drainage issues as well as super elevating the roadway to pitch the sheet flow in one direction and guiding water underneath the proposed driveway of Lot 85N toward Route 240. Mr. Farland would also adjust the natural swale on that property to assist with the drainage.

Ms. Fidalgo wished to discuss the possibility of protected species living on the properties. Mr. Foley explained that to his knowledge this property is not mapped as a priority habitat which would require an extra level of review from the state for the proper permitting, but he would double-check. Mr. Farland let the Board know that this project had been filed with the Conservation Commission and that the Conservation Agent had visited the site as part of the application process.

Mr. Lucas asked further questions about the sewer and recharge systems and requested further details regarding those aspects be included on the next iteration of the plans.

As for the next step in the process, Farland Corp will have to submit revised plans based on the feedback they received from both the Planning Board and the Highway Department. Given the number of revisions required, he suggested continuing to the May 23 meeting and Mr. Farland was amenable to that idea.

Mr. Lucas made a motion to postpone the public hearing on DS 2023 - 01 – Lincoln and Jason Subdivision until the May 23, 2023 meeting and was seconded by Mr. Grant.

Mr. Carr asked if the plans could be finalized in time for the May 23, 2023 meeting and Mr. Farland assured that he would work with the Highway Department to finalize them in time. As far as the possibility of contamination, Mr. Farland would be in contact with an LSP, and should

any issues come up during construction, they would conduct further testing. They also would be working to meet all DEP requirements by the May 23 meeting.

Ms. Melanson asked if a peer review would be required, but as this is for less than three houses, the engineers themselves are required to submit documentation, stamp, and certify that the design meets the DEP Stormwater Management Regulations.

Ms. Fidalgo would like to see more information on plantings and street trees in the revised plans, which Mr. Foley and Mr. Farland agreed with.

The motion passed unanimously. (7-0)

Mr. Foley requested that Mr. Farland email him with the request to continue so it could be stamped and entered into the project record.

Before moving on to the Upcoming Reviews, Mr. Foley presented the previously mentioned bill to the Board for \$99.56 to Staples for office supplies.

Mr. Lucas made a motion to pay \$99.56 to Staples for office supplies and was seconded by Mr. Braga. The motion passed unanimously. (7-0)

5. UPCOMING REVIEWS:

- a) **Street Discontinuance:** Section of Torrington Road behind 270 SNR. Tentatively May 23.
- b) **Special Permit:** Proposed Domino's Pizza Delivery at 177 Huttleston Street, P. H. May 23.

Both of these applications are in process and are planned to be ready for the May 23 meeting.

6. OTHER BUSINESS: Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.

Before closing the meeting, Mr. Braga wished to thank Mr. Foley for his years of service to the Town and the rest of the Board concurred. Mr. Foley promised that he would continue to be in contact and assisting the Town during the transitional period.

7. NEXT MEETING: Tuesday May 9, 2023.

Mr. Braga made a motion to adjourn and was seconded by Mr. Grant. The motion passed unanimously at 8:32 PM.

Respectfully submitted,
Stephanie A. Fidalgo
Recording Secretary,
Planning Board