

Fairhaven Planning Board

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Minutes

Tuesday, March 10, 2020 – 6:30pm
Town Hall, 40 Center Street,
Fairhaven MA 02719

2020 APR 22 A 11: 47

FAIRHAVEN,
MASS.

1. GENERAL BUSINESS:

a) Chair's Welcome & Media Notification – Mr. Farrell opened the meeting at 6:35p.m.

b) Quorum/Attendance:

Present: John Farrell, Ann Richard, Cathy Melanson, Wayne Hayward, Jeffrey Lucas, John Malaspino, and Rene Fleurent (6:47pm)

Absent: Geoff Haworth

c) Minutes: February 25, 2020

Ann Richard made a motion to approve the minutes, and was seconded by Jeffrey Lucas. Mr. Lucas had a couple of amendments to the minutes. Motion passed unanimously with the amendments, Mr. Farrell abstained as he was not present on February 25.

d) Planning Board Bills:

GCG – Carapace LLC, \$287.50 – Jeffrey Lucas made a motion to pay GCG for Carapace LLC for \$287.50, and was seconded by Ann Richard. The motion passed unanimously.

e) Correspondence:

Paul Foley stated he received an email from Mazda/Carpace to continue to next week. Mr. Foley stated they all recently met to review the project. (Richard Rheame, Mike Carter from GCG, Ms. McClees, and Wayne Hayward also as he had stopped by the office).

Mr. Foley stated the discussed some of the issues and the discrepancies with regard to the number of waivers required. They need numerous waivers from the Fairhaven Stormwater regulations. Mr. Carter from GCG pointed out that an alternative was to put in 3 stormceptors. The applicant agreed to do that and they would get us revised plans within a week. Therefore the public hearing would need to be continued. Mr. Hayward stated he didn't think the applicant didn't mind putting in the stormceptors and there was no reluctance on his part.

2. PUBLIC HEARING:

- i. **SP 2019-15 – Mazda Dealership/Carapace LLC:** Continued Public Hearing on proposal to create a new Mazda Dealership on the corner of Bridge Street and Route 240 (Map 36, Lot 15).

Jeffrey Lucas made a motion to continue SP 2019-15 Mazda Dealership to March 24, 2020 and was seconded by Cathy Melanson. Motion passed unanimously.

- ii. **SP 2020-01 – Ocean Breezes 4-Unit Condominium:** Public Hearing for proposal to construct a 4-unit multi-family residential complex at 294 Huttleston Avenue. **WITHDRAWN.**

Mr. Foley stated they asked to withdraw without prejudice.

Jeffrey Lucas made a motion to withdraw without prejudice and was seconded by Cathy Melanson. The motion passed unanimously.

On the question, Mr. Hayward asked if they knew the particulars to why the withdrawal.

Mr. Foley responded a DPW meeting was held and a couple of issues came up, one being they needed to tie in new sewer and new water as there are issues with existing lines. Mr. Foley didn't think Planning would want the garages facing out on Route 6 and they stated they couldn't do it without the garages. Mr. Foley stated they never submitted sections and elevations for the property.

Mr. Hayward asked if the Route 6 Moratorium would impact the Lewis Landing project. Mr. Foley stated they didn't want to wait for the moratorium to be investigated when it was up. He will follow up with DPW when that moratorium is up.

Motion passed unanimously.

3. CURRENT PLANNING:

a) Draft Decision: Approval of SP 2020-02 – Acushnet Co. New Entry and Wellness Center

Mr. Foley stated he wrote up the approval with 18 standard conditions adding #6, "The Management team shall remind staff to staff to obey the approved traffic flow and especially that there is no right turn allowed onto Mill Road for employees except for local traffic".

He stated he reviewed the 1993 Special Permit documents and there were no actual conditions other than they had to go to DPW to get a variance. The description of the plan was very detailed and they spoke about the traffic flow.

Mr. Lucas asked if condition #17 & #18 were redundant. Mr. Hayward said one was regarding the appeal period and one is about endorsing and recording it. Mr. Lucas felt that both did not need to be included and had a question on how we track the recording.

Mr. Foley stated that Mr. White, the Building Commissioner will request a recorded copy of the special permit from planning as they go through the building process and will not issue a Building Permit unless the Decision is recorded. Also, planning is on the building sign off sheet.

Mr. Foley agreed perhaps both #17 & #18 are redundant and can be combined.

Mr. Lucas thinks we should just keep track of all decisions as well. Mr. Foley and Mr. Farrell will add a reminder to their calendars.

Ann Richard motion to approve with the changes as discussed and was seconded by Cathy Melanson. The motion passed unanimously.

b) Upcoming Public Hearings:

1. SP 2019-13- Lewis Landing/Huttleston Multi-Unit Condominiums: Continued Public Hearing on proposal to create twelve (12) 2-bedroom condominiums in four buildings on 2.5 acre on Huttleston Ave (Map 31, Lot 117C). 2/25 hearing was continued to Tuesday, March 24.

Mr. Foley stated they gave us another \$1,000 and were doing a total new stormwater plan.
Mr. Foley said they had opened the public hearing at a previous meeting.

Mr. Lucas asked if there had been any communication with the State regarding the pipes that go under the state highway. Mr. Foley stated he will check to see who he has to correspond with from the state side of things.

On another note, Mr. Hayward stated he saw Mattapoisett Department of Public Works on Route 6 in the last couple of days, cleaning sidewalks and maintaining them. He said that Fairhaven DPW refuses to maintain Route 6 and he's not sure why.

c) Review of Town Warrant Articles submitted for May 2, 2020 Town Meeting.

Special Town Meeting – May 2, 2020 – proposed zoning bylaw amendment to allow special permits to be valid for up to 3 years.

Mr. Lucas wanted to make sure that it should read “Annual” Town Meeting.

Mr. Farrell asked if everyone is okay with the language – anything to propose.

Mr. Farrell read the 2020 proposed general bylaw amendment to impose a 3% community impact fee on short term rentals.

Ms. Richard asked why single family homes are not included? Mr. Foley stated there was language from the law on says 2-family or 3-family. This vote is for short term rentals by a person to live in the building and rent the extra units.

Ms. Richard stated should add single family. Mr. Hayward questioned why it would even apply to 2 or 3 family units?

Mr. Foley explained, as he saw it If you have a 2-or 3 family and you are owner-occupied, you're allowed to do the short-term rentals. If a person rents out a space for 15 days or more they have to register with the State as a short term rental. To do this there are rules requiring having insurance and paying the hotel rooms tax. This Community Impact Fee allows a town to add 3% on top of the 6% hotel rooms tax.

Mr. Foley thinks over time we are going to need to regulate short term rentals. But that is going to take more time. There are various ways to regulate such as limiting how many days a year, where they are, and make sure they are up to speed on all of their inspections and bills and such. This is simple language to add the 3% community impact fee.

Ms. Richard stated she felt it should include single family and addition to renting out their whole house; as it is common on Airbnb is to rent out a room in their house.

Mr. Farrell wasn't sure why we have to differentiate.

Mr. Foley stated it was language taken from the Mass General Law and had to be two separate votes. One for the 2d and 3rd units and the other for STR that are professionally managed.

Mr. Farrell said he was not comfortable with this bylaw as he didn't want to rush it.

Mr. Hayward stated he objected to this bylaw. He stated the state has authorized this bylaw. He stated he spoke to the zoning officer and they emphasized that you can not ban the use per the state. He said the local community should be doing a zoning local by-law. He reiterated the definitions were not clear about what they mean; and there was no language. We are by-passing the regulations and collecting the fees, making it difficult to regulate in future.

Mr. Farrell said he just wanted to be clear it has to be regulated and didn't want to see it go back and forth.

Mr. Foley stated that seven other towns have adopted the community impact fee and the language is from the state. He said he could include the definitions of "short term rental" or the 'professionally managed'.

The Board continued to discuss how to proceed. Ms. Richard stated they could pass it over to a Special Town Meeting. Mr. Farrell made a motion to continue to study this and approach through zoning. He requested to table this article for the spring town meeting and continue it to fall town meeting. Cathy asked if we are tabling it here or at Town Meeting. The point was to be tabled here at the Planning Board.

Mr. Farrell changed the motion to say he was asking for the withdrawal of the Proposed 3% Community Impact Fee at Annual Town Meeting and was seconded by Mr. Fleurent. The motion passed unanimously.

Mr. Farrell reviewed the 2020 Annual Town Meeting Article for the National Flood Insurance Program.

Mr. Foley explained the Flood Insurance Maps have changed and we need to update the bylaw citing the correct map panels and including some language so that we remain in the National Flood Insurance Program. Mr. Foley stated it is throughout the whole town – it is mandatory.

Ms. Richard asked that this information should be on the website as it is listed on this proposed bylaw amendment. Mr. Foley will make sure to post on the website.

Mr. Foley said he can advertise for the 4/10/20 public hearing – highlighting the first 5 bullets.

Mr. Hayward asked about an amendment on the stormwater by-law for Town Meeting. He said they weren't aware of the language or who is proposing it. He said it should be something that Town Counsel and Planning Board reviews.

Mr. Foley read the proposed Article 39 – Stormwater Ch. 194.

Mr. Hayward explained the article as it reads today takes authority away from the Planning Board and is being changed to the Conservation Commission. He explained why it affects the Planning Board. I object to the whole idea of it. He said it should be done in consultation with the Planning Board. I've been asking for legal counsel to help to no avail and he objects to the whole line of thinking.

Mr. Farrell stated that Conservation Commission did not stop a subdivision. He said the Planning Board is looking out for Fairhaven and its neighborhoods. He said the last thing we want to do is take away that oversight.

Mr. Hayward stated the peer reviews are being done backwards and costing the developer thousands upon thousands and it's not right. Mr. Foley noted that the bylaw needs a public hearing and that he would ask when the Public Hearing is and let them know that the Planning Board needs to be consulted.

Ms. Richard asked who was petitioning the article to Town Meeting.

Mr. Foley said the draft warrant says it was DPW and Conservation Commission. He said he believed Conservation had nothing to do with it, and it was written by DPW.

Mr. Hayward explained that DPW has never had stormwater control and they just have been paving roads to the water with no control. He said that he and the former Planner have had many conversations with DPW to discuss stormwater and there haven't been any changes. He said they are taking it upon themselves to write this bylaw and running with it. He stated the bylaws have been in place since 1996 and he wondered why the new approach.

Mr. Farrell asked Mr. Foley how an application is first processed when it arrives at his door.

Mr. Foley stated that sometimes the engineer applies with the same set of plans to everyone (Planning, Conservation and Zoning.) He stated sometimes they go to one, and not the other. It varies. Mr. Farrell asked if as department heads if they could have an agreement that it comes to Planning Board first. They sometimes don't have to come to Planning. We will work on our communication.

Mr. Hayward stated he believes it is the engineers who are playing the game. Divide and conquer – divide the boards; it is definitely causing issues, Mr. Hayward stated.

Mr. Farrell stated he believe it comes down to Department Heads working together.

Mr. Foley stated he wanted the Mazda project to go to Conservation first because the wetland delineation line was expired and, as it turns out no longer accurate That in turn affects the plan, or should anyway.

Mr. Hayward expressed his disconcertment with Conservation and the stormwater regulations.

Mr. Foley agreed that Peer Review for the Hiller and Timothy subdivision definitely got out of control with the applicant dropping off plans on the day of a hearing and needing multiple peer reviews. Mr. Foley thought he and Ms. McClees would be saving the applicant money with peer reviewers by doing them together, but if that hasn't been the case they will revise. He said in the future he will not send a revised plan for a second or third Peer Review unless voted by the Board to do so.

Mr. Fleurent said it was very important we handle our responsibility as board members. It's our responsibility to hold these bylaws in place that come before us.

Mr. Hayward would like to see the Town Attorney come in and explain it to the Board. Mr. Farrell said he would like to find out who's lobbying this, as the Planning Director has been kept in the dark. Mr. Foley stated he will let them know our objections/expressions to get clarification.

Ann Richard asked about the other article that is in there for Crow Island. Mr. Foley stated they are being scheduled with the Planning Board on April 14, 2020.

Mr. Foley also stated G. Bourne Knowles came in today to rezone the property back to commercial. He has to go to the Select Board to get an article on the warrant with signatures.

Mr. Foley read Article #21, that the Town was trying to acquire land for public safety facility. He stated he had last heard town was looking at another piece of property.

Ms. Richard – isn't that culvert in the new flood plain? Discussion ensued regarding that property as well as the old Fairhaven drive-in property.

4. LONG RANGE PLANNING:

a) Town Planner Update: Grants, PACE; SRTA

Mr. Foley said that just this morning he and Harbormaster Tim Cox went up to Gloucester to a meeting of the Seaport Economic Council and were awarded a \$1,000,000 Grant to fix the south side of Union Wharf. Mr. Foley this week applied to the Community Compact Best Practices program for two grants. One is for the Rt 6/240 Redevelopment Study and the other is for the complete streets program.

SRTA – Regional Transit Authority Meetings. Mr. Foley started attending and is looking forward to working with them to have the website be more user friendly. He said it is a monthly meeting. Rte 11 through Fairhaven is doing well and they are in a 6-month trial on night service. Route 11 has fixed stops and hits both Southcoast Health and Market Basket.

Mr. Foley also advised he met with representatives from MassDevelopment about the Publically Accessed Clean Energy (PACE) program along with Town Accountant, Anne Carreiro and Mr. Rees. He explained that PACE would allow commercial and industrial buildings to do long-term loans for new efficiencies and solar on rooftops including the roof itself for a longer 20 year loan. It would not require much staff time and very little risk. He said it would be up to the Select Board to adopt.

Mr. Foley has recently sat down with Fairhaven Historical Committee. He also attended a grant workshop a few weeks ago and looking at funding money through a grant. Mr. Foley reported that the Rt. 6 final draft study is now up and need comments. They are not recommending the two lanes. They do want to improve the biking facilities. He is hoping for a one-way loop on Main and Middle Street.

In other business:

The Governor declared state emergency today...

Cathy Melanson made a motion to adjourn and was seconded by John Farrell. The Motion passed unanimously at 8:30pm.

Respectively submitted,

Patricia A. Pacella
Recording Secretary