

Fairhaven Planning Board
Minutes
Tuesday, June 23, 2020 – 6:30pm
Town Hall, 40 Center Street,
Fairhaven MA 02719

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FAIRHAVEN,
MASS.

Mr. Farrell opened the meeting at 7:00 p.m. remotely via Zoom.

Present in the banquet room was Town Planner, Paul Foley.

1. GENERAL BUSINESS:

a. Present: John Farrell, Wayne Hayward, Rene Fleurent, Cathy Melanson, Jeffrey Lucas, Geoff Haworth, Jay Simmons, Jay Malaspino and Rene Fleurent were all present remotely through a Zoom Meeting Venue.

b. Absent: None.

c. Board Elections:

Mr. Foley began the nominations for the Chairman.

Chairman: Cathy Melanson nominated John Farrell. Per roll call vote, everyone was in favor of John Farrell for Chairman. Mr. Farrell took over at this time.

Vice Chairman: Jeff Lucas nominated Wayne Hayward. All in favor per roll call vote.

Clerk: Geoff Haworth nominated Cathy Melanson and was seconded by John Farrell. Roll call vote in favor of Ms. Melanson to be clerk.

SRPEDD Commissioner: Jeff Lucas nominates Rene Fleurent and Mr. Simmons seconded the nomination. Mr. Simmons motioned to close the nominations and was seconded by Ms. Melanson. The motion passed unanimously. With a roll call vote, all members agreed to Rene Fleurent for SRPEDD Commissioner.

EDC Representative: John Farrell nominated Geoff Haworth for the EDC Representative and seconded by Jay Simmons. Mr. Simmons motioned to close the nominations and was seconded by Mr. Lucas, the motion passed unanimously. With a roll call vote, all members agreed to appoint Mr. Haworth for EDC Representative.

CPC Representative: Wayne Hayward nominated Jeff Lucas for the CPC Representative, and was seconded by Cathy Melanson. Mr. Simmons motioned to close nominations and was seconded by Mr. Lucas. With a roll call vote, all members agreed to appoint Mr. Lucas as the CPC Representative.

Cathy Melanson made a motion not to have a roll call vote when voting and was seconded by Jeffrey Lucas. Per the roll call vote, all Planning Board members agreed. The motion passed unanimously.

c. Minutes

- a) Approve the minutes of May 26, 2020 & June 2, 2020 – Cathy Melanson made a motion to accept minutes for May 26, 2020 and seconded by Mr. Lucas. On the question there was no comment. All in favor, with Mr. Simmons abstaining as he was not present at the May 26 meeting.
- b) June 2, 2020 Minutes – Cathy Melanson made a motion to accept the June 2, 2020 minutes as written and was seconded by Mr. Hayward. All in favor with Mr. Simmons abstaining.

e. Planning Board Bills: Mr. Foley said there were five bills.

\$525.00 for Neighborhood News – Mazda, Lewis Landing and Crow Island. Mr. Foley noted that this was advertising for the meeting that was cancelled due to the State of Emergency.

Cathy Melanson made a motion to pay Fhvn. Neighborhood News for \$525.00, and was seconded by Jeff Lucas. Motion passed unanimously.

\$170. Fhvn. Neighborhood News for Mazda

Cathy Melanson made a motion pay Fhvn. Neighborhood News \$170 and was seconded by Jeff Lucas. Vote was unanimous.

\$788.20 Standard Times – advertisement for 5/11/20 for the National Flood Insurance Program. Jeff Lucas made a motion to pay \$788.20 to the Standard-Times and was seconded by Mr. Hayward. Motion passed 7-1 (Geoff Haworth temporarily lost his connection to the zoom call).

\$422.25 Standard-Times advertisement for Mazda for 6/2/20. Mr. Foley explained that they had to use the Standard-Times for one of the ads to get the first ad in time. Jeff Lucas made a motion to pay the \$422.25 and was seconded by Cathy Melanson. The motion passed unanimously.

\$170. Fhvn Neighborhood News – Jeff Lucas made a motion to pay \$170 and was seconded by Cathy Melanson. The motion passed – 7-1 (Rene Fleurent was temporarily disconnected on the zoom call)

Jeff Lucas said he would like to recognize Ann Richard's involvement with the Planning Board and thank her for her contribution as vice chairperson and member. Mr. Farrell agreed we should thank Ms. Richard for her service on the Planning Board and her perspective.

Jay Simmons also wanted to thank Ms. Richard for her service.

f. Correspondence: None.

2. PUBLIC HEARINGS

- a.) Public Hearing: Crow Island

Mr. Christian Farland and Mr. John Markey were present.

The proposal is to rezone the island from a Single Residence District (RA) to a Mixed-Use (MU) District. They are looking for a recommendation from the Planning Board and it is on the Town Meeting warrant for Town Meeting.

Mr. Foley gave an overview of the project. The former owner used the island as his private residence. There was a radio tower on the island at one point. The proposal to re-zone came before the Planning Board last year and was recommended to Town Meeting but the Applicant did not get on the Town Warrant. Some people raised some concerns after that.

They are looking to do special events, weddings, corporate outings and family reunions. They plan on bringing in quite a bit of fill in the middle of island, up to elevation 5-7'. This will have to go to Conservation Commission. They are also working with the DPW to extend the sewer line and connect to the island.

Mr. Foley said it sounds like it could be a good idea as long as it has reasonable regulations and does not become a nuisance. A Special Permit from the Planning Board would do that and is likely but not guaranteed. The Special Permit is a safeguard for the applicant as well as the Town. There are some concerns that if the project were not subject to Special Permit Review there may not be safeguards in place to keep the activities from becoming a nuisance with loud music and late hours.

Although the Applicant states in their narrative that music and noise are not expected to be an issue due to their location and distance to residential neighborhoods the site is fairly close to downtown residential neighborhoods and music carries over water. The applicant owns a launch that operates out of Pier 3 in New Bedford. However, there is no guarantee the owner of the island will always control transport to the island and that visitors and guests will not try to find their own way to events on the island. They do not plan to bring visitors from Fairhaven at this time. The impact to municipal services such as police and fire could be difficult if and when they are called upon. Received a revised plan today that he reviewed with the Board members. Again, this could be a good and fun business with the safeguards that come with a Special Permit.

Mr. Farrell introduced the Board members to the Public.

Mr. John Markey was on the Zoom call representing the applicant. Mr. Markey stated they are very early in the stages of the project. He is presently looking at bringing sewer to the lot and talking to Conservation on the impact with that. This is simply a request at this time to change the zoning from RA to Mixed-Use. Mr. Markey said his client, Mr. Santos, is a professional businessman in the greater New Bedford area. He is being modest with his expectations as he researches the sewer line and the ability to work

with Conservation. The fill is to create a flat surface to put up a tent, not a permanent tent. The original intention is that they will incrementally grow the catering business to have someone out there. It is an interesting project for him. The single first step is to get the rezoning.

Mr. Farrell opened it up the board members.

Rene Fleurent shared his concerns for how people would get to the island as well as the noise.

Mr. Markey explained where the launch is and the parking lots. He stated that Mr. Santos owned the Candleworks parking lot and has a lease with the City on the Pier 3 parking lot. He said there is also the option of the Whale's Tooth Parking lot with a shuttle directly to the launch. Mr. Markey also stated that Mr. Santos purchased the Whaling City expedition vessel as an integral part of this project.

Mr. Lucas expressed his concerns over parking for any future businesses if they are solely dependent on Fairhaven. He is also concerned if boaters would just be able to tie up there. He said he would like the Planning Board to be able to review every time there is a change of businesses at the location. Mr. Haworth echoed Mr. Lucas' concerns. He said he is also concerned about noise carrying over the water.

Mr. Markey reiterated this first actual step is to change the district and get the sewer lines there and then they can tackle the noise, parking etc. Mr. Markey clarified the venue for tonight is certainly discussing the zoning change, discussing noise down the road.

Mr. Hayward expressed concerns about the permitting process so that they can address those issues. He stated that the applicant has already filed or have an intention to file with the Conservation Commission and have proceeded with a conversation with DPW. But what they haven't done is discussed it with Planning Board, before tonight or the Building Commissioner. Mr. Hayward stated this was a zoning matter which falls under the purview of the Planning Board. He said there was a discussion back in October to come before them and they haven't seen them until this point to get a recommendation to Town Meeting on a zoning change.

Mr. Hayward stated that he is in full support of what they are proposing but again it's the way they are going to different departments/boards in a piece meal effort to get the plans approved before even talking to the Planning Board, who issues the Special Permit.

Mr. Markey said he appreciated Mr. Hayward's perspective. He said they have anticipated that they would probably need to go for a Special Permit through the

Planning Board. They are also anticipating coming before the Building Commissioner, Zoning Board etc. and thinks that can be addressed after this part of the process

Engineer, Christian Farland went over the intentions of the project. He stated the island is currently serviced by a 2" water line, and they are proposing a sewer line that will provide 15 gallons per day per occupant with the usage being about 4500 gallons per day. He stated there is electric service currently there. He stated they have spoken to Conservation, DPW and the Harbormaster to date. He said plans haven't changed much. They were adding a sewer line for long term investment and that Mr. Santos is looking to invest in the property. Hoping the Board can offer a favorable recommendation.

John Farrell asked what is currently on the island for sewer. Mr. Farland stated septic is in place currently on the island.

Mr. Markey stated that a liquor license is envisioned for the future, but at this time they would be looking at a caterer that has the liquor license.

Jay Malaspino stated he was not against the project at this time but going with the other concerns on the noise. Mr. Simmons expressed concerns about parking, utilities and boat traffic. He also had concerns about a disaster plan if there was a storm and people were on the island, which would fall under Public Safety.

Mr. Farrell stated he too had similar concerns. He is in general support of something out there, but too early to tell about the intensity of use.

Mr. Farrell opened up for public comment.

Mr. Hayward stated he was hesitant to move forward in a positive recommendation as they haven't even discussed plans with the Building Commissioner yet. He said the applicant doesn't know if the Building Commissioner would require them to apply for the Special Permit. He said he thinks the Board should have something to rely on. He stated the Board could hold off on their recommendation until Town Meeting. He feels they need some kind of assurance from the applicant.

Mr. Farrell asked if they had filed anything with DPW as of yet.

Mr. Farland stated nothing officially filed as of yet; but they did meet with the DPW, who had no issues. They are trying to meet the July 6, 2020 date to file a Notice of Intent with Conservation for work within the buffer zone. He stated they needed to get an abutters list because the work is going through additional parcels to get the sewer line connected to the Town sewer line.

Mr. Hayward asked why they haven't filed anything with Planning to go through the Special Permit process.

Mr. Farrell got temporarily dropped from the call. Mr. Hayward continued, he stated the question to the Board members is do they want to recommend a rezone from a RA (Residential) to MU (Mixed Use). At some point, someone needs to make a positive motion to recommend at town meeting or not.

Mr. Farrell got back on the call. Mr. Farland stated he would be filing a NOI for the filing of the parcel and sewer line.

Mr. Hayward stated they must have sewer line plans for the NOI. Asked if you have any conversations with the Building Commissioner to determine how he leans on what triggers the special permit. He said he would like some assurances to move forward. Mr. Lucas stated he was in agreement with the previous speaker and thinks they are perhaps putting the cart in front of the horse.

Mr. Markey reiterated that they're intention is to speak to the Building Commissioner and they anticipate they are going to have to file for a Special Permit with the Planning Board in the near future.

Cathy Melanson stated none of this is going to happen if they aren't rezoned to mixed use. She is in favor of a favorable recommendation at Town Meeting to recommend a positive recommendation and to move forward with a special permit contingency.

Mr. Simmons asked if they can recommend a zoning change contingent on a special permit. Mr. Farrell stated a motion needed to be made that says that.

Mr. Hayward said, with all due respect this is their first meeting and there is no way to condition a positive recommendation with a contingency for a Special Permit. He said it is either a recommendation positively to Town Meeting or not.

Mr. Fleurent stated he couldn't agree more with previous speaker. He is not very comfortable with this recommendation to move forward to Town Meeting.

Mr. Farrell stated he is in favor of moving this forward and recommending a rezone from RA to MU at the Town Meeting. He reminded the Board to stay the course of why we are here tonight. He said he understood what has happened in the roles of different departments in town and he hasn't heard anything tonight that this applicant wouldn't apply for a Special Permit. Mr. Farrell asked Mr. Markey if he would like to close the public hearing which Mr. Markey said he would.

Ms. Melanson made a motion to close the public hearing and was seconded by Mr. Fleurent. Via a roll call vote, all members were in favor of closing the public hearing.

Ms. Melanson made a motion to have a favorable recommendation to Town Meeting to change the zoning district from RA to MU and a contingency that a Special Permit be require. No one seconded the Motion.

Mr. Farrell made a Motion to recommend that Crow Island be rezoned from the RA (Residential) to the MU (Mixed-Use) zone and the Motion was seconded by Cathy Melanson. Per a roll call vote: Mr. Hayward was a negative; Mr. Lucas, positive; Mr. Fleurent, negative, Mr. Haworth, negative; Mr. Malaspino, positive, Mr. Simmons, positive, Mr. Farrell, positive and Ms. Melanson, positive. The motion carried in the affirmative 5-3.

a) Receipt of Plans: Form An ANR: 110-114 Green Street

Mr. Foley stated parcel 3 on the plan is 3,320 sf being transferred from 114 Green St. to 110 Green St. 114 Green St parcel 2 will be combined with Parcel 1; parcel 1 with 9,960 sq feet and parcel 2 with 16,673 sf minus the sf 3,320. The required notes explaining exactly what is happening are on the new plan. All members were in favor of the project.

Mr. Farrell opened up to the public.

No public comment. Mr. Foley stated not a public meeting it was just receipt of plans to endorse whether the plan meets the requirements for an ANR (access and frontage) and does need to be reviewed under the Subdivision Control Law. 114 will merge two lots and continue to conforming while 110 will be slightly larger and though not quite conforming will be more conforming than it currently is.

Mr. Lucas made a Motion that the to endorse that the ANR is not subject to the subdivision control law and therefore made a Motion to proceed with signing the ANR and was seconded by Cathy Mlelanson. The motion passed unanimously.

Mr. Foley is in the office now Tuesdays and Thursdays and half days on Friday.

b) Upcoming Public Hearings:

- i. SP 2019-13 – Lewis Landing/Huttleston Multi-Unit Rentals: He is still waiting for additional information.
- ii. Text Amendment to allow Special Permit up to 3 years – waiting for full Town Meeting date

2. CURRENT PLANNING:

- a) Town Planner Updates:** Mr. Foley stated there was an upcoming public hearing on July 28, 2020 for Bask Recreational Marijuana. Mr. Foley is meeting with the lawyer on Thursday. They are in pretty good shape. One issue is whether a traffic study is needed. Open public hearing on July 28, 2020.

Mr. Farrell stated that all board members welcome to tour the facility of Bask.

Mr. Foley stated not much happening on the July 14, 2020 meeting. Mr. Farrell said he'd be interested in taking 7/14 off. Ms. Melanson made a motion to not hold a meeting on July 14, 2020 and was seconded by Jay Simmons. Motion passed unanimously.

Mr. Foley suggested they review a number of zoning bylaw changes for fall meeting. Mr. Farrell suggested putting things on the agenda in August to move forward unified with different department heads. Mr. Foley briefly spoke about cluster zoning, solar canopies, Short Term Rentals, new Special Permit triggers.

A quick discussion with Building Commissioner and Conservation Agent to meet weekly moving forward to stay on top of communication between the departments.

Mr. Lucas would like to add discussing different levels of business districts in Town. He has heard issues about the Air BNB issues in town.

Cathy Melanson made a motion to adjourn and was seconded by Jay Simmons. The motion passed unanimously. The meeting ended at 9:38p.m.

Respectively submitted,

Patricia A. Pacella
Recording Secretary