



# Town of Fairhaven

## Department of Planning and Economic Development

Town Hall • 40 Center Street • Fairhaven, MA 02719

Telephone (508) 979-4082 • FAX (508) 979-4087

RECEIVED  
TOWN CLERK

2020 OCT -6 A 11:44

Fairhaven Planning Board

### Minutes

Tuesday, September 9, 2020 – 6:30pm

Town Hall, 40 Center Street,

Fairhaven MA 02719

FAIRHAVEN.  
MASS.

#### 1. GENERAL BUSINESS:

a) **Chair's Welcome and Media Notification** – Mr. Farrell opened the meeting at 6:34 pm and advised the meeting was being recorded, however not being put out live to Channel 18 as there was a School Committee meeting on at the same time.

b) **Quorum/Attendance: Present:** Chairperson, John Farrell, Vice Chairperson, Wayne Hayward, Jeffrey Lucas, Cathy Melanson and Jay Malaspino

**Absent:** Geoff Haworth, Jay Simmons and Rene Fleurent, Jr.

c) **Minutes:** August 25, 2020 – Cathy Melanson made a motion to accept the minutes of August 25, 2020 and was seconded by Mr. Lucas.

On the question, Mr. Lucas asked for an amendment for line #47 at the top of page 2. the statement by Mr. Hayward doesn't make sense, "what other cost would the grantee need to pay for". Mr. Foley will correct the minutes and add the word "cost" to the sentence and remove the second "would".

Mr. Hayward had a correction to line #146 – If a zoning by-law is passed then it could be interpreted that if they are already doing it they are 'grandfathered'.

With those amendments, Mrs. Melanson agreed to accept the minutes with the changes and it was seconded by Jeffrey Lucas. The motion passed, 4-0-1 with Mr. Farrell abstaining because he was not there.

d) **Planning Board Bills** - \$180.00 advertising Lewis Landing in the Fairhaven Neighborhood News. Jeffrey Lucas made a motion to pay Neighborhood News \$180.00 for the listing Lewis Landing and was seconded by Mrs. Melanson. The motion passed unanimously via roll call vote, 5-0.

#### e) Correspondence

Mr. Foley went over the Bridge Street "Gas Dedication". He stated there was a temporary Certificate of Occupancy until September 25, 2020. Mr. Foley discussed the proposed 17' easement along Bridge Street and what changes were added to the conditions. He pointed out the different changes listed on the proposal for the easement and disclaimer.

Board members had no additional comments.

## **2. PUBLIC HEARINGS:**

a) Public Hearings: Continued from August 25, 2020

i. SP2019-13-Lewis Landing/Huttleston – Continued Proposal to create twelve (12) 2-bedroom rentals in four 2.5 acre on Huttleston Ave (Map 31, Lot 117C)

Steve Gomes of Prime Engineering was present on Zoom on behalf of the applicant.

Mr. Farrell stated there was a quorum; however, they need 2/3 of the vote to respond in the affirmative. Mr. Hayward asked if Mr. Haworth was going to be joining the meeting, and Mr. Foley said he reached out to him to no avail. Mr. Lucas asked if they were to proceed if Mr. Haworth would need to do another Mullin.

Mr. Hayward stated that if a board member misses two meetings, they cannot use the Mullin Rule; however, Town Counsel could potentially authorize the "rule of necessity"; but it has to be a good reason. Mr. Farrell stated they would need to discuss it further with Town Counsel.

Mr. Foley stated among other things, the condominium documents have not been reviewed by Town Counsel as of yet, as they have not been received and there is an outstanding bill.

Mr. Farrell recommended that the applicant ask for a continuance.

Mr. Gomes would like to request a continuance to the next Planning Board on September 22, 2020 meeting after discussion.

As a point of information, Mr. Hayward stated he would like to send Mr. Foley his issues in writing via email and he can relay them to the applicant.

Mr. Gomes asked for a continuance to September 22, 2020.

Mr. Farrell made a motion to continue the public hearing to September 22, 2020 per the applicant's request and was seconded by Wayne Hayward. The motion passed unanimously via roll call vote.

## **3. CURRENT PLANNING**

a) Review of Potential Zoning Bylaw for the 2020 Fall Special Town Meeting in October (Short Term Rentals, Cluster Zoning)

Mr. Foley stated he knows there is a lot of interest and different opinions on short-term rentals. He stated that he and Mr. Farrell spoke and agreed this be postponed with the thought of it being on the Spring town warrant after holding public hearings during the winter to hear the different opinions.

Mr. Farrell stated that in the current by-law it is not allowed and that the Town is currently lacking an enforcement officer. He said it would be best to postpone it until Spring and really study and organize the by-law to have it succeed in Town

Mr. Hayward stated he agreed with that thinking. He stated the Town would soon be getting a new Building Commissioner and hopefully he could be brought into the conversation once he arrives. He said he still sees a problem that there are continuous complaints happening now and per our Town's

current by-law, non-family accommodations are not allowed in a RA/RR District. He said he would like to get the new building commissioner involved from the get-go and perhaps be brought in on a Planning Board meeting to get his opinion and see what his past experience is with this type of by-law.

Mr. Foley stated he was on interview committee and one was especially above the rest, and it seemed everyone agreed to move forward with the recommendation. He has not heard anything since Friday and not sure where it stands, but hopefully sooner rather than later. Mr. Foley agreed he will speak to the new Building Commissioner once he begins and also will speak to Attorney Crotty as well to get his opinion.

**Cluster By-law:** Mr. Foley stated this would be another by-law to be reviewed over the winter with public hearings and possibly put on the spring annual town meeting warrant. Mr. Foley thinks the Town could use a cluster by-law. He stated he has a meeting with some people tomorrow on a preliminary subdivision at 46 Sconticut Neck Road that, if we had a cluster bylaw, they might avail themselves of it.

**Limit of Special Permit approval:**

Mr. Foley stated the State allows "up to 3 years". What the Planning Board had previously considered was two years for most permits but three years at the Boards discretion for solar fields and other large projects that can take a long time to finance. The Town attorney suggested that the period should be consistent across the board, either two years or three years for everyone. If you give one applicant two years and another three years then it could be interpreted as unfair.

Mr. Hayward stated that the state law says a maximum of two years and he understood it as they were not asking for a flexible amendment. He was looking at changing it to say "3 years", not "up" to 3 years. Mr. Hayward stated it would be nice to have access to Tom Crotty in situations like this.

Mr. Farrell suggested that Mr. Foley should speak to Mr. Rees about the opportunity to discuss with Tom Crotty, to rewrite the text amendment only that says "3 years" not "up to 3 years," to stay consistent.

Cathy Melanson made a motion that Mr. Foley talk to Town Administrator, Mr. Rees to discuss with Attorney Crotty regarding the limit of Special Permit approval to three years. The motion was seconded by Wayne Hayward. On the question, Mr. Hayward stated he did not understand why the DPW, School Committee and Board of Health seem to have Attorney Crotty's attention, but that the Planning Board had to beg to get legal clarification. He said they were merely asking to go from two to three years, no flexibility, merely a text amendment.

The board continued the discussion. Mr. Farrell suggested that they delay this text amendment by-law as well to make sure they were able to get the exact language they were asking for. Mr. Farrell asked for a vote on the motion brought forth, and took the vote via roll call.

Cathy Melanson – Yes. Jeffrey Lucas – No. Wayne Hayward – No. Jay Malaspino -Yes. And John Farrell, No. The motion did not pass.

Mr. Farrell stated he would discuss with Mr. Hayward on suggestions of the wording and bring it back to Mr. Foley. He also stated that he would like to see the Planning Board write the by-law and for Attorney Crotty to then review it, not the other way around.

b) Gas Station Easement Update had already been discussed.

**c) Town Planner Update**

Mr. Foley stated the first CPC meeting was coming up on October 1, 2020. He said that the bikeway committee was meeting again. Mr. Foley is trying to engage a Planning Board member to be on the Complete Streets working group. He said that consultant has been chosen to help develop a Policy and then develop a prioritization plan. The Plan comes up with at least fifteen or so projects that meet the Complete Streets criteria. Once both the Policy and Plan are approved the Town becomes eligible to apply for up to \$400,000 annually to build those projects on the Plan. The Complete Streets projects looks at all users of all abilities, from biking, pedestrian, transit, handicapped accessibility as well as vehicles.

Mr. Foley stated there is potential for \$400,000 annually to fund these projects and in the first year there's a good opportunity get a good chunk of that money depending on how good our prioritization plan is. He said he would add the topic to the next agenda for some discussion.

Union Wharf construction bids opened last week with 7 different construction firms bidding and there was a low bidder but the consultant is reviewing to make sure they are legitimate and checking their references. The Town received a \$1 million grant to do the south sheet wall of Union Wharf.

Mr. Foley will be doing a presentation to the Selectboard at their next meeting on the Dog Park. He said he reviewed any additional three different options in Town for a potential dog park that were suggested by the BPW. One of them actually scored pretty well and will be added to the list of finalists for the Select Board to consider. One was North Street, Rogers School and Macomber where the BMX track is.

46 Sconticut Neck Road is applying soon for an 8-lot subdivision. They will come in for a preliminary at the next meeting. Wayne Hayward asked if there has been a final presented to GCG for final stormwater analysis on this project. Mr. Foley stated that this project has been in front of Conservation Commission for quite a while. Again, Mr. Hayward asked if they have had a final with GCG on stormwater. Mr. Foley said it would be up to the Planning Board; he agrees they should have come before the Planning Board earlier.

Mr. Hayward said that the Planning Board could potentially modify the layout and he does not understand the process of the applicant going to stormwater analysis for final review before coming to the planning. Mr. Foley said some of it was driven by work they to do for the Army Corps of Engineers.

Mr. Foley stated there was a lease on the property near West Marine to be a landscaping/contractor's yard. They want somewhere to meet their workers and park their equipment in back. They do not want to build a building. It fits Contractors Yard better than anything else. They are a tree service that does some landscaping. Mr. Hayward asked if they would be storing materials there. Mr. Foley said they said they will not but people forget over time. Mr. Hayward said they may want to consider industrial property in town. Mr. Foley said he suggested that but they like the visibility here.

Mr. Foley said he received a copy of the Town Warrant for the Special Town Meeting and on it was something in regard to the public safety building land acquisition. He said he knew that GB Knowles' attorney was trying to get on the Town Warrant to rezone their property back to commercial. He heard that the Fairhaven Drive-In property was back on the public facility radar. He advised the town that per chapter 65, this should be going through the Planning Board.

Mr. Hayward said it sounds like things are happening behind the scenes and Mr. Foley is not being kept in the loop. He said he does not know why Town Meeting would rezone a property that the Town was going to purchase. He said most definitely these projects need to be more public, as there are very clear by-laws in Town on how things should occur.

Mr. Foley agreed that it should be brought to Planning Board before Town Meeting, and he will bring it up with Mr. Rees and Mr. Crotty.

Mr. Hayward asked about a "host" agreement that the Select Board discussed the night before for Metro Harvest. He thinks the special permit should come before the host agreement, and the special permit is done through the Planning Board. Mr. Foley said he say the Select Board Meeting and thought they were referring it to confirm that the proposed property is in the Marijuana District. He has not received a referral yet.

#### **4. LONG RANGE PLANNING:**

a) Town Planner Update: Mr. Foley briefly updated the Board on the Redevelopment Study.

b) Other Business:

Mr. Hayward stated there is a quorum issue and letters need to go out to board members to advise them to attend the Meetings or consider whether they want to be on the Board.

Cathy Melanson made a motion to adjourn and was seconded by Jay Malaspino.

Mr. Farrell advised he will confirm with Mr. Simmons and the town clerk that Mr. Simmons has resigned. He asked that they declare a vacancy at their next September 22, 2020 meeting.

Via roll call vote, the motion passed to adjourn unanimously at 7:55p.m.

Respectively,

Patricia A. Pacella  
Recording Secretary