

Planning Board
Thursday, November 1, 2018 at 6:30 pm
Banquet Room, Town Hall, 40 Center Street
Fairhaven, Massachusetts

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FAIRHAVEN,
MASS.

1. **GENERAL BUSINESS:**

- a) Acting Chairman's Welcome and Media Notification
- b) Quorum/Attendance **Present:** John Farrell, Wayne Hayward, Ann Richard, Geoff Haworth, Jeffrey Lucas, Cathy Melanson. **Absent:** John Malaspino
The Town Planner was in attendance as well.
- c) Election of officers: Chair, Vice-chair, and Clerk.
Mr. Lucas nominated Ann Richard for vice-chair. Seconded by Mr. Haworth.
Cathy Melanson nominated John Farrell. Seconded by Mr. Lucas.
Anne Richard nominates Cathy Melanson for Clerk.
- d) Minutes: acceptance of the minutes of the meeting of October 23, 2018 . Mr. Lucas made a motion to accept the minutes of the meeting of October 23, 2018. Seconded by Ann Richard.
The motion passed unanimously.
- e) Planning Board Bills: None
- f) Correspondence: None.

2. **PUBLIC HEARINGS:**

The Fairhaven Planning Board will hold a public hearing to hear comments from the public and to vote on the following proposed amendments to the Fairhaven Zoning Bylaws for the November 13, 2018 Special Town Meeting Warrant, as well as any articles concerning land use or development.

a) **Zoning Bylaw Amendment – Consolidated Marijuana Zoning**

The proposed zoning bylaw amendment provides for the safe and deliberate implementation of the recreational marijuana law that both protects the health and safety of Fairhaven residents and property owners and respects the majority of Fairhaven voters who approved the ballot question, by imposing reasonable safeguards on the operation of marijuana establishments. This zoning will encompass and replace the existing medical marijuana zoning (§198-29.7 Marijuana Establishments), properly add the formerly approved medical marijuana district to the zoning bylaw which was previously and inadvertently left out (§198-14 Establishments of Districts), and includes additions to the definitions section (§198-33, Definitions and Word Use) and changes to the use table (§198-16 Use Regulation Schedule).

Gloria McPherson explained that when Town Counsel reviewed it, he thought that the medical marijuana overlay district was appropriately cited in the text of the bylaw and didn't think that he needed to add that district as another column to the zoning table, so we continue to use the same way as the industrial zoning district with a footnote about Marijuana.

Wayne Hayward expressed his opinion about the language in the bylaw being liberal and not being restrictive. Mr. Hayward goes on to explain that he doesn't agree with all those uses that were identified in 198-3 should have been removed and replaced with one use.

Mr. Farrell explained that the language covers all future use. The bylaw was by town counsel.

Rene Fleurent arrived at 6:49 p.m.

Mr. Hayward expressed concerns regarding how a ten-page document became an eight-page document and that explained that he objected a portion of the bylaw, specifically in the moratorium section regarding the language identifying uses of marijuana. *The definitions and the uses*, explained that they should be separate articles, so people are allowed to vote on it.

Mr. Haworth explained that dealing with the bylaw no matter what the use of marijuana , it would still have to meet the nine requirements that the Town Planner has listed and come before the board to be issued a Special Permit.

Mr. Hayward explained concerns about the marijuana use table.

Ms. McPherson explained that a draft was posted online, and it was changed in between meetings that Mr. Hayward wasn't in attendance.

Ms. Richard explained that the Board had already discussed bylaw with public and the board is ready to move forward with bylaw.

Mr. Hayward questioned why there was two Public Hearings on the same matter.

John Farrell said this meeting tonight was to consolidate the marijuana zoning.

Ms. McPherson stated that the last meeting's vote was to put it on the Warrant and this meeting is to make a recommendation to Town Meeting.

Gloria McPherson stated that all changes to the bylaw were done in between meetings.

Wayne Hayward questioned the unlimited number of Medical Marijuana establishments, and if can be limited.

Mrs. Richard and Ms. McPherson both explained that the number of Medical Marijuana establishments was previously discussed at the last meeting.

Doug Brady asked the board questions pertaining to Mr. Haywards comments about the number of Medical Marijuana establishments.

John Farrell explained that No, the it is illegal to limit Medical Marijuana establishments.

Doug Brady asked questions pertaining to retail and medical establishments, and about the language that was removed. Mr. Farrell explained that Town Counsel believes to umbrella any future use, the best way to explain that is to say "Establishments" and that was the intent.

Doug Brady asked questions regarding number two in the Warrant Article , Marijuana Establishments and the administration of Marijuana.

Kathy Delano, Precinct one, expressed concerns regarding the bylaw, and the limitation of special permits. Mrs. Delano explained that there is a conflict in the bylaw.

Ms. McPherson explained that the number of retail establishments can be limited just not the number of medical marijuana establishments.

Karen Vilandry expressed concerns regarding non-residents making comments, and that comments from family members of board members should be taken into consideration due to it being a conflict of interest.

John Farrell explained that he will allow anyone to speak that would like to speak.

Karen Vilandry expressed her concerns pertaining to the September draft.

Shane Sher precinct two expressed his support for the bylaw and the board.

Ann Richard stated for the record that Mr. Sher is her husband.

Bernie Roderick explained that he would like clarification on the last statement on the Warrant.

Doug Brady asked the board about the number of special permits a cultivator can be given.

Wayne Hayward explained that it was the same number as the medical Marijuana establishments.

Ms. Vilandry expressed concerns regarding specifics in the bylaw and the safety of patrons ,staff etc.,

John Farrell explained that the board has worked with the fire department as well as the police department on the bylaw and cannot get that specific.

Tim Kio, Operator of BASK explained his support in bylaw and regulations of cannabis.

Doug Brady voiced his concerns regarding overlay district.

Ms. Vilandry voiced concerns regarding overlay district and questioned the specifics in the bylaw.

Ms. Richard made a motion to recommend the approval of the Warrant Article 9 on November 1, 2018 and was seconded by Cathy Melanson. The motion passed five in favor and two in opposition.

b) Zoning Bylaw Amendment: Town-wide Moratorium on Adult Use Marijuana

The proposed zoning amendment would extend the existing moratorium on adult use marijuana, which it due to expire on December 31, 2018, to June 30, 2019.

Mr. Hayward expressed his support in the extension of the moratorium.

Ann Richard explained that she is not in favor of moratorium and the board has worked long and hard on this current proposed bylaw and recommends that it be passed at Town Meeting.

Mr. Haworth expressed his opposition of the extension of the moratorium and that he believes the board should move forward with bylaw.

Cathy Melanson explained that the bylaw is a living document and that it always be amended.

Mr. Lucas explained that the moratorium will protect against some drastic changes out of the state but would vote against moratorium with this proposal.

John Farrell explained that previously he voted for moratorium, at that time it was more reasonable to gather more time and research but some of the public comments, emails posturing of the Selectmen . The votes approving retail marijuana that the town had casted in state election. Those all were taken into consideration and feel that it is a conflict that we are placing forth a bylaw and moratorium at the same time. Before this issue this board worked really well together, and hopefully in the future it will continue to work well together. It is a completely new use, it's not something that the board is running into, it's something the Selectmen had given the board to create a bylaw. Mr. Farrell explained that he doesn't like scare tactics, and inaccurate facts being stated. Mr. Farrell explained that the town isn't protected, and this is a problem for everyone. This is a living document as Mrs. Melanson has stated and can be amended at any point. Mr. Farrell went on to explain that he commends everyone for being respectful even though the public is very passionate about this. The frustration that is seen from the Planning Board is because this board has worked really hard. It's the Planning Boards job to work hard for the public and this hasn't been easy to deal with.

Mr. Hayward explained that the reason he stands behind the moratorium is because he feels the Planning Board did not do a good job in some areas.

Doug Brady explained that it's not about the prohibition of marijuana, but other options like the moratorium.

Ms. Vilandry expressed her opinion about specifics in the bylaw and the moratorium.

Jessica Felado, expressed her opposition for the moratorium.

Bernie Roderick explained his support for the extension of the moratorium.

Mr. Hayward made a motion that we recommend the adoption of this article, and seconded by Ann Richard. The motion did not pass with two in favor and five opposed.

d) Bylaw Amendment: The Rezoning of a Portion of the Roger's School Site

The proposed zoning amendment would rezone a portion of the Rogers School parcel containing the historic school, and not the playground parcel, from the Single Residence (RA) zoning district to the Apartment/Multi-family (RC) zoning district, in order to accommodate a redevelopment proposal that would restore the historic portion of the Rogers School and provide a total of 14 condominium dwelling units. The zone change would affect 56,207 sf of the 71,750-sf total parcel area, Assessor's Map 8, Parcel 9.

Gloria McPherson explained that with proper changes it can be feasible.

Mr. Hayward explained that rezoning to another use. Expressed his opinion that he sees it should be rezoned to (RA, RC).

Mr. Lucas had questions pertaining to the spot zoning.

Mr. Farrell explained that would like to see the school saved.

Ms. McPherson explained that there was another Warrant Article for sale of property.

Mr. Lucas expressed concerns regarding the way the school project was proposed.

Mr. Hayward explained that the rezoning is really the only option, either rezoning to RC or don't.

Correspondence from police regarding parking.

Ms. McPherson explained that the school can be redeveloped without zoning change.

Mrs., Richard expressed her concerns pertaining to the Warrant Article.

Gloria McPherson explained that the Fire Chief was fine with it.

Mr. Haworth also expressed that the best use of property would be RC.

Resident, Mike Ristuccia expressed his support in rezoning to RC and had questions pertaining to the traffic and residents around Rogers School.

Mr. Lucas expressed his concerns regarding Lot 9.

Margret Gray explained that she thought that in the study it stated that the building would not be good for housing.

How Allen, realtor expressed his concerns regarding the aging population.

Nels Isakson chairman of Rogers study committee explained that they sent out two RFP'S that were quite detailed and only received one response and that the board should here the plan.

Gloria McPherson stated that for clarification the Board isn't rezoning the property, the board is only making a recommendation to town meeting on rezoning.

Doug Brady expressed concerns regarding the sale of property and that it's a condensed area. He was in support of multiuse for building.

Lisa Rodriguez explained that the building is deteriorating and expressed concerned with process.

Gary Lavallette expressed concerns regarding financial aspects and spot zoning and hopes board will adopt this.

Zackary Mayo , developer for proposed development . Expressed the importance of the preservation of this building and its possible uses.

Vincent Manfrini expressed his concerns regarding traffic congestion around the Rogers School, rather see a park in that area than more housing.

Susan Loo, a member of the Roger's School Committee explained that the committee did get a quote for demolition of The Rogers School and the cost would be approx. 1.7 Million dollars.

Doug Brady also a member of the Rogers Committee expresses his opinion regarding the rezoning and what's the best use of the property for the community.

Susan Lou questioned the sale and rezoning. Explained that this developer is in response to the third RFP. This is the one proposal that we received in response to that RFP.

Cathy Melanson made a motion to recommend approval of the warrant article 11 to Town Meeting and was seconded by Mr. Haworth. This motion passed with three in favor and four in opposition.

Mr. Farrell explained that he is in favor of saving the school but not for the procedures. In his opinion this could wait until spring.

a. Street Acceptance: Doane Court

This article is for the acceptance of Doane Court, a Planning Board approved subdivision way, from the intersection of James Street to Doane Court cul-de-sac, a distance of 400 feet eastward, more or less.

Ms. McPherson stated that there had been changes since she drafted the staff report.

Mr. Farrell explained that he had an opportunity to read the DPW email, and then followed up with a formal report with check offs.

Mr. Farrell made a motion to adopt the Warrant Article -14 Seconded by Cathy Melanson. The vote passed unanimously.

Cathy Melanson made a motion to adjourn and was seconded by Wayne Hayward. The motion passed unanimously.

Respectively,

Shallyn Carreiro