

PLANNING BOARD MEETING of April 22, 2014: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS:

Chairperson, Wayne Hayward - Opened the meeting at 6:32pm. Mr. Hayward indicated to the Board and Public that the meeting was being recorded.

Quorum/Attendance

Members Present – Chairperson, Wayne Hayward, Vice Chairperson, Gary Staffon, Kaisa Cripps, John Farrell, Jr., Rene Fleurent, Jr., Jeffrey Lucas (arrived at 6:40 pm) and Peter Nopper.

Absent: Francis Budryk

Planning Director William Roth was not in attendance.

Board Elections:

Wayne Hayward turned the meeting over to Recording Secretary, Pattie Pacella to hold the election of Chairperson.

Pattie Pacella opened the Chairman nominations.

Gary Staffon nominated Wayne Hayward and was seconded by Rene Fleurent, Jr. There were no other nominations. The Board voted all in favor of Wayne Hayward for Chairperson.

Wayne Hayward opened the Vice Chairman nominations.

Peter Nopper nominated Gary Staffon for Vice Chairman.

John Farrell, Jr. nominated Rene Fleurent, Jr. for Vice Chairman.

The voting was tied with three people voting in favor of Gary Staffon for Vice Chairman, and three people voting in favor of Rene Fleurent, Jr. as Vice Chairman.

Gary Staffon then declined the nomination for Vice Chairman, and the vote for Rene Fleurent, Jr. as Vice Chairman was voted on unanimously.

Wayne Hayward opened the nominations for Clerk.

John Farrell, Jr. nominated Peter Nopper for Clerk and was seconded by Rene Fleurent, Jr. There were no other nominations. The vote was unanimous for Peter Nopper as Clerk.

Wayne Hayward expressed there was a need for a SRPEDD Commissioner.

Rene Fleurent, Jr. expressed that he would still be interested, if the Board wanted him to continue to be the SPREDD Commissioner.

Kaisa Cripps nominated Rene Fleurent, Jr. for SRPEDD Commissioner and was seconded by Peter Nopper. The vote was unanimous for Rene Fleurent, Jr. for SRPEDD Commissioner.

Wayne Hayward announced the new Board: Wayne Hayward as Chairperson, Rene Fleurent, Jr. as Vice Chairperson, Peter Nopper as Clerk, Rene Fleurent, Jr. as the SRPEDD Commissioner and Jeffrey Lucas would maintain being the CPC representative.

Gary Staffon made a motion to approve the February 25, 2014, minutes and was seconded by Kaisa Cripps.

On the question, Jeffrey Lucas made two minor typo corrections on the minutes. The minutes were passed unanimously with the corrections.

Planning Board Bills:

1. ADS – FN News – **Flood Plain Bylaw** - \$90.00

Jeffrey Lucas made a motion to pay the \$90.00 to Fairhaven Neighborhood News and was seconded by Gary Staffon. The motion passed unanimously.

2. Office Supplies – **Staples** - \$220.70

Gary Staffon made a motion to pay the Staples bill of \$220.70 and was seconded by Jeffrey Lucas.

On the question, Vice Chairman, Rene Fleurent, Jr. asked what was on the bill.

Wayne Hayward, having a copy of the bill, reviewed it and advised ink and toner, and additional office supplies.

The motion passed unanimously.

II. CURRENT PLANNING:

Receipt of Plans:

None.

Approval of Plans:

None.

III. PUBLIC HEARING:

1. Def Subdivision – **Mary Vander Pol** – Earle Street – (con't from 2/25/14)

Wayne Hayward advised the Public and the Board that this was being continued from February 25, 2014 meeting. Mr. Hayward also explained that he had received the Mullen Rule notice from Jeffrey Lucas, which allows Mr. Lucas to vote on tonight's information, as he has reviewed all the documents and video from the previous meeting to be caught up to date and has filed it with the Clerk's office.

Mr. Hayward explained that as of Friday, April 18, 2014, Mr. Roth had not received any new information regarding this project.

Engineer, Kenneth Ferreira was present. Mr. Ferreira stated he agreed that this has gone on a long time and he gave the Board a recap of the project. He stated that he has received full approval from the Conservation Commission with one condition, regarding not having chip seal within 100' of the wetlands.

Wayne Hayward asked when Mr. Ferreira received the approval from Conservation.

Mr. Ferreira stated it was in November of 2013.

Mr. Ferreira stated that in February the meeting was strictly a discussion meeting on a plan, with a redesign coming in from Jenny Street. Mr. Ferreira said that his client now does not want to come in from Jenny Street and they reverted back to the December 10, 2013, plans, which he put in front of the Board.

He explained the plans to include that the roadway is super elevated and they squared off the intersection. He stated a 12" DIP under triple seal and they would have private wells on the lots.

Jeffrey Lucas asked if Conservation Commission saw this plan.

Mr. Ferreira stated they did and they approved wetland line for 3 years with the one condition of no chip seal within 100'.

Jeffrey Lucas asked what the distance between the pavement and the house corner was.

Mr. Ferreira stated the closest is 7.8'.

Mr. Ferreira stated that the December 10th plan is identical to the October 3, 2013 plan.

Wayne Hayward said that he didn't remember the December 10th plan, and he wasn't sure it was routed to all departments.

Mr. Ferreira said yes it had been.

John Farrell, Jr. directed to Mr. Roth's memorandum that there had been no contact with the applicant between March 20th and April 7th; and asked if the applicant had paid a revision fee.

Mr. Ferreira stated there was no revision, so there was no need to pay the revision fee. He did state, however, that his client spoke to Mr. Roth directly.

Wayne Hayward said that he had received an email late Friday, April 18th afternoon from Mr. Ferreira that they were coming in tonight for the Board to vote on these plans.

Kaisa Cripps expressed that she thought these plans were the incomplete plans.

Mr. Ferreira said that the last meeting in February was strictly a 'discussion' on the plans; however the plan in front of the Board currently is a definitive plan with all notes, construction documentation, etc.

Kaisa Cripps said she disagreed and that she was looking at the December 10, 2013 plans that were in front of her, and argued that she felt they were incomplete.

Wayne Hayward said that he was unsure that they have reviewed these plans. He reviewed the continuation dates from December to January and February. He reiterated that he had received the email on Friday, April 18th that plans being submitted tonight were being submitted for the final review and again he was unsure they had previously been seen by the Board before tonight.

Mr. Ferreira said that he has worked in front of the Planning Board for a better of 20 years, and that there was no reason for him to say the plans had previously been before the Board if they in fact, were not.

Gary Staffon asked if they were proposing additional large rocks or a breakaway wall.

Mr. Ferreira said they were not because there was an existing pathway.

Kaisa Cripps wanted to clarify that they wanted to use Earle Street as the entrance not Jenny Street.

Mr. Ferreira said that was true.

Ms. Cripps said that again she had some issues that there could be some civil issues with neighbors from adverse possession and it was just her concern as a Planning Board member.

Mr. Ferreira said it would not be an adverse possession. He stated that they were not preventing access to the neighbor's driveway.

Ms. Cripps said she had been out to the site and it was very marshy and very boggy.

Abutter, Sean Higgins of 122 Huttleston Avenue expressed concerns over the wetland area, the drainage and that the project has been going on for some time. He said he was unhappy with the project and was against it. Reading from Mr. Roth's memorandum, Mr. Higgins said the project should be denied per the Town Planner's recommendation.

Abutter, Mark Raimondo said he was upset that the applicant decided to go back to the original plan and that was the plan that everyone said would be dangerous. He said he was highly upset and agreed that the project should be denied and thrown out.

Another abutter expressed that this has gone on long enough.

Vice Chairman, Rene Fleurent, Jr. said that he had some concerns about the drainage and the entrance in from Earle Street.

Abutter, Scott Messier of Jenny Street said he maintains that road and wondered if the road would be put back to the condition it is in.

Ken Ferreira stated that the sewer line would be put in as a 2" line, 4' deep with small machines and then the road would be put back to the original condition.

Wayne Hayward said that he was not clear about the plans and that this was a definitive subdivision plan that the Board needed to make a decision this evening, he also concluded that it was asking for a lot of waivers.

Mr. Ferreira read each waiver aloud to the Board from the plans, saying there were 5 waivers in total.

Kaisa Cripps said there was also no landscaping waiver. Ms. Cripps also referenced the Fairhaven Code for Subdivisions, 322.16 regarding concerns for Public Safety.

Also reading from the Fairhaven Code for Subdivisions, Jeffrey Lucas quoted 322.16 A & 1A, shows up on two locations.

Wayne Hayward said they needed to vote on the waivers that the applicant was requesting.

Mr. Hayward read each individual waiver and asked the Board to vote on them individually.

The first waiver, Design Standards: 1 in favor (Gary Staffon), with 6 opposed.

The second waiver, Sidewalks: 5 Board members in favor, 2 oppose (Kaisa Cripps & Wayne Hayward).

Third waiver, Storm water Management: 2 in favor (Gary Staffon & Jeffrey Lucas), 5 opposed.

Fourth waiver, Utilities/Water (from Town water to well): 5 in favor, 2 oppose (Wayne Hayward & Kaisa Cripps).

Fifth waiver, Street Acceptance (private): 4 in favor, 3 oppose (Jeffrey Lucas, Gary Staffon, Kaisa Cripps)

Wayne Hayward asked if the Board felt there should be any other waivers.

Jeffery Lucas said health and safety, as well as landscaping.

Kaisa Cripps reiterated plantings and landscaping.

Jeffrey Lucas referred to 322.16 A (7), center line of street should be right of way, he said it really is a question.

Wayne Hayward said it varies from side to side.

Jeffrey Lucas asked if the Fire Department reviewed it.

Mr. Hayward said they didn't have any issues with a hammer head.

Ms. Cripps asked if there would be a Homeowner's Association, 322.14 (P1).

Wayne Hayward said that would be part of a condition.

Wayne Hayward said he was thinking along the lines of what Mr. Lucas had brought up (322.16 A7).

Mr. Lucas also quoted, 322.17 (B), allowing for School Bus pickup. He said that he was sure he had more, however he hadn't given the time to review.

Mr. Ferreira said that in the beginning he had had 16-20 waivers, however Mr. Roth had advised him to group them all together.

Mr. Lucas said however, Mr. Roth is not on the Board though.

Abutter, Sean Higgins said that Mr. Roth was not present, and the Board should go with his recommendation which was to deny the project.

Kaisa Cripps quoted from the Fairhaven Code, 322.24, the historic stonewall going through the property.

Wayne Hayward explained that the vote requires 5 yes votes to approve.

Gary Staffon asked if there would be conditions on the houses.

Vice Chairperson, Rene Fleurent, Jr. made a motion to approve the definitive subdivision for Mary Vander Pol plans as of December 10, 2013, and was seconded by Gary Staffon.

On the question, Wayne Hayward said he wasn't sure it was the December 10th plans they should be voting on or the October 3rd plans.

Ken Ferreira said the December plans were the same as the October plans except for the 5' shortened for the chip seal.

Vice Chairman, Rene Fleurent, Jr. amended his motion to accept the October 3, 2013, plans with the exception of the 5' shortened of chip seal and was seconded by Gary Staffon.

On the question, Gary Staffon confirmed the October 3, 2013, plan is the same as the December 10, 2013, plans?

Mr. Ferreira said yes, the December 10, 2013, plan just shows the 5' shortened for the chip seal.

Jeffrey Lucas reiterated that Conservation Commission approved the October 3, 2013 plan and walked the site, and approved the wetland line, and conditioned the road shortened 5', not to include chip seal within 100' of the wetlands.

Gary Staffon offered an amendment that Conservation Commission have jurisdiction on two lots for siding and fill. There were two in favor of the amendment (Gary Staffon and Rene Fleurent, Jr.) and 5 oppose. The amendment fails.

Gary Staffon offered an amendment on gutter drains on all three homes.

Wayne Hayward said that he wouldn't support that amendment because that is something they had required to be on the plans, and it is not.

Gary Staffon, Jeffrey Lucas and Rene Fleurent, Jr. voted in favor of the amendment by Mr. Staffon and 4 people oppose. The amendment fails.

On the amended motion presented by Rene Fleurent, Jr. to approve the subdivision plans of October 3, 2013 with the 5' shortened for chip seal, the motion was denied with 0 in favor, 7 oppose. The motion does not pass.

2. Unaccepted Street Discontinuance – NSTAR – Charles and Laura Streets

Jeffrey Lucas recused himself as a direct abutter, he advised he has no financial interest in the project, and asked if it was okay if he sat in the gallery.

Ken Conti, Engineer for NSTAR and Wayne Hayward both agreed that would be fine.

Wayne Hayward opened the Public Hearing and introduced the Board Members.

Ken Conti introduced himself as the Engineer representing NSTAR and explained as a minor error on the assessor's map in the 1950's Charles and Laura Streets, paper streets were a part of the subdivision plans. Mr. Conti said there were portions of the streets where NSTAR owns both sides, he understands that BPW has concerns with discontinuing Laura Street and they were fine with that. They would ask just to discontinue Charles Street.

Wayne Hayward explained the concern from the BPW was that there was a 50' easement on Laura Street.

Mr. Conti said that the easement is in the rear of the lot and there's not really any access back there, so they are fine with leaving Laura Street.

Wayne Hayward asked if Laura Street comes right through the property as shown on the assessor's map.

Mr. Conti said an ANR would be forth coming.

Wayne Hayward said that it was a paper street that was proposing to be discontinued. He said it was pretty clear cut and there was no public interest in the street.

Rene Fleurent, Jr. made a motion to accept the discontinuance of Charles Street (not Laura Street) and was seconded by Gary Staffon. The motion passed 6-0, with Jeffrey Lucas abstaining.

Kaisa Cripps made a motion to not discontinue Laura Street and was seconded by John Farrell, Jr. The motion passed 6-0, with Jeffrey Lucas abstaining.

3. Preliminary Subdivision – George & Sharon Mendonca – Frederick Ave – Map 29-A, Lot 168 & 169

Wayne Hayward explained there were no abutters notified, because this was a preliminary subdivision.

Engineer, Allen Ewing was present representing the Mendonca's. He explained this is one existing parcel of land on a paper street off of Sconticut Neck Road. He explained the plan to the Board. He said it was laid out in 1928 as two parcels and that this would combine those two parcels as well. Mr. Ewing explained there's a 10" gravity sewer on Torrington Road and they could tie into a manhole, diamond drill and will have sewer and tap into water services.

Wayne Hayward asked about electricity.

Mr. Ewing chuckled that he hadn't thought about that, but he would add a pole or two.

Mr. Ewing said they would do triple chip seal to improve the road. And we're proposing a check dam, a one lot subdivision.

Wayne Hayward asked where they were with Conservation Commission.

Mr. Ewing said they have not seen them yet, that this was their first step.

Wayne Hayward said this is a preliminary subdivision which starts the 45 days.

Discussion ensued on the single lot exemption rule.

Applicant, George Mendonca said he purchased the lots in 1978 at auction and it was under his father's name, and then in 1986 he's had the land in his name since. He was under the impression that it was grandfathered.

Wayne Hayward said that he would agree with him if it was a single lot, but there are two lots. Mr. Hayward explained the Common law exemption is three lots. He said the exemption expired in 5-7 years, Mr. Fostin says 7 years.

Vice Chairman, Rene Fleurent, Jr. said he felt perplexed and read from the Zoning Act Common Law.

Wayne Hayward explained that they would be reviewing it under Chapter 41 and advised Mr. Fleurent, Jr. that he just quoted the Single lot exemption, these are two separate lots.

Discussion ensued.

Jeffrey Lucas made a motion to approve the preliminary subdivision and was seconded by John Farrell, Jr. The motion was approved 6-1, with Kaisa Cripps oppose.

IV. LONG RANGE PLANNING:

1. Zoning Reform Bill.
No new information.
2. Master Plan Discussion

Wayne Hayward stated there was no new information as of yet.

Vice Chairman, Rene Fleurent, Jr. said that he would like to see something more concrete being done in regards to the Master Plan. He expressed that he was tired of seeing it on the agenda and they talk about it for two minutes with no additional follow up. Mr. Fleurent, Jr. stated he would like to see more concrete dates attached to this agenda item and that he would like to see the Board look into creating a Historical overlay district.

Wayne Hayward said they may need to create a subcommittee to get it moving.

Vice Chairman, Rene Fleurent, Jr. asked how they get it moving.

Kaisa Cripps concurred with Mr. Fleurent. She said that she is aware that the Fire and Police Chiefs are moving forward as other Departments are and she believes the Planning Board as well needs to move on a Master Plan. Ms. Cripps expressed it would be like the work that Pattie is doing on the Town Government Study Committee, that the Planning Board needs to be moving forward.

Jeffrey Lucas said he would be more than happy to nominate Kaisa Cripps as the point person on a subcommittee.

John Farrell, Jr. asked if these things in the past were outsourced.

Wayne Hayward said they were.

Discussion ensued on how funding would happen to help with the Master Plan.

Wayne Hayward encouraged the Board members to talk to the Town Planner when he returns.

Vice Chairman, Rene Fleurent, Jr. said he thought they needed to put on some deadlines.

Mr. Hayward expressed that the Town Planner is not an employee of the Planning Board, but of the Board of Selectman and he does more than just work or recommend for the Planning Board.

Kaisa Cripps said that she would like to see a deadline of June 30th of an analysis done by Mr. Roth or his department of other Towns or municipalities that have done a Master Plan in the last two years that compare to Fairhaven.

Mr. Fleurent, Jr. agreed.

Wayne Hayward said that he believed the Board should be discussing this when Mr. Roth was in attendance.

Jeffrey Lucas said that the direction of the Master Plan should be done by the Board of Selectman, or them included.

Rene Fleurent, Jr. said that he believes the Planning Board should be more pro-active than reactive. "I want to move forward with deadlines and guidelines," Mr. Fleurent said.

John Farrell, Jr. said he thought it was a waste of time to set deadlines and a waste of Mr. Roth's time.

Kaisa Cripps said they were just looking to compile a list first off.

Wayne Hayward said they don't know these other Towns components. He said the Board has a Town Planner and he is capable of getting them the information and he has a sense of what needs to be done.

Mr. Fleurent said they are constantly discussing this at every meeting, but nothing is coming of it.

Wayne Hayward reiterated that Mr. Roth does not only work for them.

Mr. Fleurent said he just wanted to the Board to be more structured around the Master Plan.

Kaisa Cripps made a motion to ask Mr. Roth and his department to compile a list of what components need to be addressed for a Master Plan by June 30, 2013, and was seconded by Rene Fleurent, Jr. The motion was approved 3 in favor (Rene Fleurent, Kaisa Cripps, and John Farrell, Jr.), 4 oppose. Therefore, it did not pass.

Rene Fleurent, Jr. said great then we'll just keep it on the agenda.

Wayne Hayward said, "You're pushing the agenda when the man is not even here."

V. CORRESPONDENCE:

1. SRPEDD Annual Meeting – May 28, 2014

Wayne Hayward said that Mr. Roth would like a list of who is attending. Gary Staffon and Kaisa Cripps said they would not be attending.

Wayne Hayward, Jeffrey Lucas, Rene Fleurent, Jr. said they would be attending. John Farrell, Jr. said 'maybe'. And Frank Budryk was not in attendance.

2. 31 Charity Stevens Lane – Right of First Refusal – Map 40, Lot 15

Wayne Hayward explained that the Right of First Refusal was supposed to be a formal Public Meeting in front of the Board of Selectman.

Kaisa Cripps asked if there was an agricultural committee in Town.

Wayne Hayward said there is such a committee in Town, but he doesn't believe they've ever met.

Vice Chairman, Rene Fleurent, Jr. made a motion to recommend the Town appropriate funds to purchase the property at 31 Charity Stevens Lane and was seconded by Kaisa Cripps. The motion fails, with one positive (Kaisa Cripps) and 6 in the negative.

3. 237 New Boston Road – Ch. 61A – Right of First Refusal – Map 35, Lot 1

Wayne Hayward said this was a wooden and open field with a lake and stream on it.

Vice Chairman, Rene Fleurent, Jr. made a motion to recommend the Town appropriate funds to purchase the property at 237 New Boston Road and was seconded by Kaisa Cripps. The motion fails, with one positive (Kaisa Cripps) and 6 in the negative.

4. 211 Mill Road – Ch. 61A – Right of First Refusal – Map 38, Lot 14

Gary Staffon asked if this encompasses the solar farm?

Wayne Hayward said it does and that the Planning Board gave the permit for the Solar Farm on this property.

Vice Chairman, Rene Fleurent, Jr. made a motion to recommend the Town appropriate funds to purchase the property at 211 Mill Road and was seconded by Kaisa Cripps. The motion fails, with 3 in the positive (Kaisa Cripps, Gary Staffon, and Wayne Hayward) and 4 oppose (Jeffrey Lucas, Rene Fleurent, Jr., John Farrell, Jr. and Peter Nopper).

Gary Staffon made a motion to adjourn and was seconded by Kaisa Cripps. The motion passed unanimously.

The meeting adjourned at 8:52 p.m.

Respectively submitted,

Patricia A. Pacella, Recording Secretary