

Fairhaven Planning Board
Minutes
Tuesday, November 10, 2020 – 6:30pm
Town Hall, 40 Center Street,
Fairhaven MA 02719

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FAIRHAVEN,
MASS.

1. GENERAL BUSINESS:

a) **Chair's Welcome and Media Notification** - Mr. Farrell opened the meeting and welcomed newest member, Jessica Fidalgo. He advised that the meeting is being televised and recorded and read the amended Open Meeting Law announcement with respect to the State of Emergency.

b) **Quorum/Attendance (via Zoom remote platform):** Present: Chairperson, John Farrell, Wayne Hayward, Cathy Melanson, Jessica Fidalgo, Jeffrey Lucas, Jeff Lucas, Jay Malaspino, Geoff Haworth, and Rene Fleurent

Mr. Foley, Town Planner was in attendance in the Banquet Room.

c) **Minutes:** October 27, 2020 draft to be reviewed - Cathy Melanson made a motion to accept the minutes for October 27, 2020 and was seconded by Mr. Hayward. The motion passed unanimously via roll call vote 7-1-1, with Ms. Fidalgo abstaining; and Mr. Fleurent having a difficult connection.

d) **Planning Board Bills:** No bills at this time.

e) **Introductions:** Mr. Farrell introduced the new Planning Board Member Jessica Fidalgo, as well as the new Building Commissioner, Chris Carmichael. Mr. Carmichael stated he is coming from Norton as the Building Commissioner after two and half years. He said he has over thirty-five years with construction experience. He is also a ZBA Member in his own hometown.

Mr. Hayward suggested that the Planning Board allow him to meet with Mr. Carmichael and Mr. Foley as a subcommittee to move on these by-laws by offering conversation and then they could bring it back to the Planning Board for discussion.

Mr. Foley and Mr. Carmichael were both on board to discuss the by-laws with Mr. Hayward. Mr. Carmichael explained how he felt about solar canopies and what the State has said about short-term rentals. He said he dealt with a cluster bylaw in Norton.

f) **Correspondence:** Klavens Law letter re Solar Canopies at St. Joseph's Church. Mr. Foley gave an overview of a conceptual plan of the Solar parking canopies in the parking lot at St. Joseph's parish. They wanted to allocate the output of the North and South canopies to different church entities including some in New Bedford. He said they think they can do whatever they want because it is on a church property. However he does not agree that they are protected under

the Dover Amendment and in any case the Board can reasonably regulate them. Mr. Foley reviewed the plans they submitted on their proposal.

Mr. Foley read an email to what they are proposing as they are changing their original plan to include only one array of solar canopies based on an email Mr. Foley sent them. He explained that a few people/businesses are putting forth a request to put up solar canopies.

Mr. Foley showed a concept plan for solar canopies at 4 David Drown Boulevard. He advised they would need a variance for lot and building coverage. This one is in the Business district. He said he explained the process to them and haven't heard back.

There was a third request in the Industrial District on Lambeth Park Drive. He showed the conceptual plan to the members. He discussed elements of a potential new by-law for solar canopies. Where do they belong? What type of setbacks? Would the electrical output have to be used on site (behind the meter) or could they export energy?

Mr. Carmichael stated you'd have to look at setbacks and lot coverage.

Mr. Lucas asked how this would affect the stormwater regulations, if any interruption to what has already been designed. Mr. Farrell noted that the plan in the Industrial District appears to address stormwater.

Mr. Hayward asked if the St. Joseph's property is looking for some kind of determination from the Town. Mr. Foley said there is a process and they have yet to apply. Mr. Hayward said he wishes the representative from St. Joe's was at their meeting to further discuss the project.

He said that the bylaws are subject to interpretation and gave his opinion on the overview of how the solar by-law was created in 2013 and its intentions. He noted that solar is now allowed in all districts and they have oversight on the use and regulation of where they are allowed in town. They are a "Y" in our use regulations - solar is a "Y" in all districts as well. Anyone can put up solar anywhere in Town but they have to abide by the regulations. Mr. Hayward said our bylaw is based on where the power will be utilized - roof mounted is allowed in all districts and the trigger is if the power is intended to be used on site or net metering or off site sales. He said he is of the opinion that the existing by-laws do provide for solar canopies. He did say he's having a hard time dealing with what they are proposing in this case and it is up to the Planning Board to protect the by-law.

Mr. Foley stated he would invite them to the next meeting to discuss further. Mr. Foley reviewed that Jim Marot told him that in his town of Acushnet the amount of kw was adjusted down to 25kw to trigger a Special Permit.

2. PUBLIC HEARINGS:

Public Hearings: None

3. CURRENT PLANNING:

a) Possible New Bylaws for Review

Short Term Rentals - Mr. Foley added the draft bylaw from Barnstable to the website. He said the purpose of a bylaw would be to provide for the orderly operation of short term rentals and prevent negative impacts on neighborhood character, housing availability, house prices, availability of long term rental units and impacts on infrastructure and services such as septic, parking, access, fire codes and building. Mr. Foley discussed the state's 'go to information' about creating and regulating the bylaw. He went over key issues with developing a short-term rental and defining it. How many occupants would be allowed per rental? Where should it be located? Every district? Should there be a cap on the number of units? How many calendar days per year would a unit be allowed to be rented for? Complaint process? He said the trigger is fourteen days or more per year for the short-term rental tax fee.

Mr. Farrell agreed that we need to get our arms around it and involve the public. Great idea to start with Foley, Mr. Hayward and Mr. Carmichael. He asked if they could approach bedroom by square footage?

Mr. Carmichael stated that initial conversations should include fire department, and he suggested they should do an annual yearly inspection as they do many other businesses in Town.

Mr. Hayward stated his mission was to convince Mr. Foley and Mr. Carmichael the regulation scheme you need would be to write a General by-law, followed up by a zoning by-law. He said that it would be a complete nightmare to go through zoning only; as most of this bylaw should not be done by going through zoning only. He said there are several avenues of regulating short-term rentals and that's why he wants to discuss them with Mr. Foley and Mr. Carmichael.

Jeff Lucas agrees that going through the zoning officer would be a tedious process and currently there are so many avenues to go to an appeal to the Zoning board.

Mr. Foley stated that one of Mr. Carmichael's main first goals was to put the Town on an online permitting software, and he thinks that could definitely help to oversee this bylaw in house.

Mr. Carmichael agreed stating that sometimes he has no teeth in enforcing a zoning by-law because how it is written, so they need to be resourceful and educated when they are writing the zoning bylaw.

Mr. Fleurent stated he was very apprehensive to have the Zoning Board to override everything they want to do with connections to the short-term rentals. Mr. Foley agreed and stated they would want to ensure appropriate controls over it. Mr. Carmichael stated he has a very good enforcement ratio and that less than 15-20% goes back to an appeal process.

Omnibus: Additions to Use Regulation Table; Definitions; Numbering Issues; Conflicts; etc...

Mr. Foley stated they have a great use regulation table however times change a few things need to be added and or better defined especially for some things that have come up in the past: shipping containers, meeting/conference facility, storage units, and solar canopies. Mr. Carmichael agreed.

Mr. Hayward suggested adding "accessory apt/in-law apartment" to the list that needs more clarity and defining. They have to look at it on how the building inspector will be able to enforce it.

Mr. Foley also added in the by-law 198-29: there seems to be a typographical error, whereas the addition of #5 and/or #6 need to be added.

b) Receipt of Plans:

Chapter 91 Plans:

Casey Boat: Mr. Foley stated this is still under review, he did just ask them for a section or elevation that shows how the landing meets the land at the Planning Board's request last time.

4. LONG RANGE PLANNING:

Town Planner Update: Mr. Foley said a subdivision should be forth coming up in December. As well at 46 Sconticut Neck Road coming up fairly soon.

Route 6/240 Redevelopment Study; Complete Streets

Mr. Foley stated he was applying for a site readiness grant and a Mass Historic Commission grant for which the pre-application deadline is Monday. Mr. Foley stated the MHC will then invite you to apply.

Mr. Foley said the Complete Streets advisory board meeting is coming up soon in early December. Mr. Fleurent stated he would like to be involved.

CPC deadline for applications on Friday. Mr. Foley stated they have received a few applications so far and is thinking there may be a few more coming in by the end of the week. He said Mr. Furtado of the DPW has put in an application and the library to rebuild the chimney. He thinks someone from the skate park will submit and the historical society.

5. OTHER BUSINESS: Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.

Mr. Farrell asked if there had been any information back on the subdivision on Rt. 6. Mr. Foley said he has not received anything as of yet.

Mr. Foley stated there have been a number of inquiries about Huttleston Avenue, near Ocean Meadows; the empty lot over there that is in a RC District. Mr. Hayward believes there was a ZBA Decision that has limited what can be done in that area.

Mr. Hayward asked if the gas station at 277 Bridge Street has received their occupancy permit as of yet, because the area was torn up the other day, perhaps just a grading issue but they should look into it. Mr. Carmichael asked for an email to remind him and he and Mr. Foley will go do a site visit on Thursday. Mr. Foley stated they did receive their final certificate of occupancy in the last couple of weeks.

Mr. Hayward also asked about People's Way and certificate of occupancies. Ms. Pacella stated that Family Dollar has received their COO. Mr. Hayward stated that was another business that needed Mr. Foley to review the parking lot and etc., before final occupancies. Mr. Foley said he had done so with Kristian White before he left.

Cathy Melanson made a motion to adjourn and was seconded by Jessica Fidalgo. The motion passed unanimously via roll call vote at 8:03p.m.

Respectively submitted,

Patricia A. Pacella
Recording Secretary