



# FAIRHAVEN PLANNING BOARD

Town Hall • 40 Center Street • Fairhaven, MA 02719  
Telephone (508) 979-4082 • FAX (508) 979-4087

Fairhaven Planning Board

*Minutes*

Tuesday, January 26, 2021– 6:30pm

Town Hall, 40 Center Street

Fairhaven MA 02719

RECEIVED  
TOWN CLERK  
2021 FEB 19 P 3:02  
FAIRHAVEN,  
MASS.

## 1. GENERAL BUSINESS

a) Chair's Welcome & Notification - Mr. Farrell opened the meeting at 6:34pm and noted the meeting was being done via zoom remotely, due to the Pandemic in Massachusetts. Ms. Melanson confirmed there was quorum.

b) Quorum/Attendance: **Present:** John Farrell, Rene Fleurent, Jr., Jeffrey Lucas, Cathy Melanson, Jay Malaspino and Jessica Fidalgo

**Absent:** Wayne Hayward and Geoff Haworth

c) Minutes: January 12, 2021 draft to be reviewed: Jeffrey Lucas made a motion to accept the minutes of January 12, 2021 and was seconded by Cathy Melanson. The motion passed unanimously.

d) Planning Board Bills: Staples, \$97.99 for new calculator. Cathy Melanson made a motion to pay Staples \$97.99 and was seconded by Jeffrey Lucas. The motion passed unanimously.

e) Correspondence: Mr. Farrell stated they received correspondence from Ms. Susan Loo about the Rogers School Proposal. A meeting was held last Tuesday. Mr. Foley spoke to the development group that bid on the Rogers School and they are asking for an informal meeting with the Planning Board. They are planning on meeting with the Select board on February 8, 2021. He stated if the Town selects the bid and decides to negotiate with them, they then need to come to the Planning Board for a Special Permit for historic reuse. Mr. Farrell asked that Mr. Foley put them on the next Planning Board agenda.

## 2. PUBLIC HEARING

a. Public Hearings: None

b. Receipt of Plans:

Mr. Foley stated there were plans submitted that have now been retracted for 350 Main Street. Mr. Fleurent asked why they were retracted. Mr. Foley stated he is arguing that he doesn't need a Special Permit. He wants to use the building and apartments as is. Mr. Foley stated there are serious concerns with accessibility, egress, air, light, ventilation and fire concerns from himself and other departments. Mr. Foley stated there is a site plan. The Applicant doesn't have any proposed building plans to move forward. The Applicant disputes whether he has to bring it up to modern code, and the Town's position is the use was abandoned and now it has to be brought up to modern code.

Mr. Foley stated there was a definitive subdivision submitted for Frederick Avenue. There was a letter from Mr. Fostin, who said it was not a grandfathered lot. Mr. White, the previous building commissioner issued a short statement that it was a grandfathered lot. Wayne Hayward also did not think it was grandfathered. The

documents do not include anything signed by a title attorney. There was a document with a card stapled to it. "Grandfathering" will fall under the Building Commissioner and Mr. Foley is in contact with Mr. Carmichael. If it is considered grandfathered then he will stamp it in for Definitive Subdivision Review. They are asking for a lot of waivers. Mr. Foley is waiting for a determination from Mr. Carmichael to move it forward.

i. **SP 2019-13 – Lewis Landing/Huttleston Multi-Unit Rentals**: Revised stormwater plans and Peer Review for the proposal to create twelve 2-bedroom rentals in four buildings on Huttleston Ave.

Mr. Farrell stated GCG completed their 5<sup>th</sup> peer review and it was just sent to the agent/engineer in the last week. They have asked for a continuance to February 9, 2021.

Rene Fleurent made a motion to continue SP2019-13-Lewis Landing to February 9, 2021 per the applicant's request and was seconded by Jessica Fidalgo. The motion passed unanimously.

#### **CURRENT PLANNING:**

a. Possible New By-law for review; Draft Short Term Rentals & Community Impact Fee

Mr. Foley stated he has sent draft language to the Planning Board members. Key issues with developing a short term rental bylaw include where in town should they be allowed to operate? How many calendar days per year would a unit be allowed to be rented for? How many units can one owner, wholly or partially maintain in the Town? Should a short-term rental only be allowed in structures in which one unit is owner-occupied? Should there be a cap on the number of units allowed in Town at one time? How to enforce compliance and establishment of penalties for non-compliance.

Mr. Foley discussed the 'Community Impact Fee', per Section 3D (b) of M.G.L. Chapter 64G to be paid monthly on the total amount of rent for each transfer of occupancy of any professionally managed short term rental units. This would be 3% in addition to the existing 6% Room Occupancy Tax to help pay for oversight and overpayment.

Mr. Foley is meeting with Chris Carmichael, who is reviewing the definitions of the zoning by-laws and suggesting to adopt several from the Mass General Law definitions (about 15-20 to replace or add to the definitions).

Mr. Fleurent asked if we had to abolish them entirely and create new ones. Mr. Foley stated that an enforcement program would had to be completed if we are going to abolish them all together.

Mr. Fleurent asked what constitutes a 'short-term' rental. Mr. Foley stated under a month at a time; possibly 2-3 days at a time. The State law kicks in once a unit is rented more than a total of 14 days. If you rent a month at a time that is not a Short Term Rental nor if you charge less than \$15 a day.

Mr. Lucas asked if this was the time when we were discussing. He said he has some concerns that would like to be discussed prior to a public hearing. Mr. Foley said we can discuss now or in the next few weeks but will need to have a public hearing soon.

Mr. Foley gave an update for the Complete Streets. He said that they'd be looking for some response for potential complete streets project, as the consultant is going to join the meeting tonight.

Mr. Foley stated the National Flood Insurance Program revised maps and language for the Bylaw is coming up. The NFIP LFD deadline is July 6, 2021. Mr. Foley stated that this would need to be a public hearing as well for an amended bylaw. Mr. Foley is looking at a public hearing on March 9, 2021. Mr. Foley said there are ten to twelve

"language changes" that needs to be made to the flood insurance management bylaw. Mr. Foley stated he would send the language changes to the board members and upload it to the website.

Mr. Foley stated he has been in a few meetings regarding the Stormwater Management. A few changes to 198-31.1. Mr. Hayward has helped with some draft language for the changes. He said the consultant is suggesting to designate new Stormwater Authority (either PB or Con Comm. or Dept. heads committee), move the details to regulations and reduce threshold below 1 acre and consider administrative review level of review.

Mr. Farrell asked why they are asking for the stormwater management change.

Mr. Foley stated that he believes that the DPW doesn't want to be the authority for the stormwater management.

Mr. Farrell stated that Mr. Foley has received no additional staff and the DPW has a lot more staff.

Mr. Foley stated that it sounded more like a checklist and the boards, (Planning and Conservation) would be the stormwater management authority. Mr. Foley thought it 'might be a good idea' but it needs to be reviewed and put for the Fall or a Town Meeting in 2022. He said there are suggestions coming from the consultant.

Mr. Fleurent asked why DPW wants to push the stormwater authority to other boards. Mr. Foley said he was not sure.

Mr. Foley stated they (BETA) recommended to consider administrative review for disturbance between 10,000 square foot and half-acre by review; over half-acre would require land disturbance permit.

#### **Rogers RFP Bid & Mothballing:**

Mr. Foley reviewed the one bidder from Arch/Lanagan LLC. 62 units; 8 in the building and 54 in an addition outback. First the town has to decide whether they accept the bid and then a discussion with the developer takes place. They met on January 25<sup>th</sup> with architect, building commissioner, Rogers School Committee and an engineer to evaluate the tower. He said the planning board has the final say and will hold public hearings. Mr. Foley stated there was an approved additional \$3,000 to repair leaks in rear of boiler to start up heat. The mothballing is going forward and the RFP bid is going forward as well.

Ms. Loo stated they would like to see the Rogers School stay in Town's hands; and Mr. Foley stated he would volunteer to help write grants to keep the Rogers School if it comes to that. At this time we should work with the one bid and hope the developers will scale the proposal back a bit.

#### **Bask Recreational:**

Mr. Foley spoke to Bask who is looking to open in mid-February. A four-phase opening plan will take place. A working group meeting on Monday/Tuesday with Police, Fire/EMS and Planning Department to discuss operations, traffic volumes, and address any issues until there is consensus that it is safe to proceed to Phase 2. They have contacted DPW regarding pre-construction meeting (no construction) and they will reach out to Building Commissioner for preparing for the occupancy permit. They stated they will contract landscaping company for plants and will plant by May 1, 2021.

#### **b. 40R - Fairhaven Redevelopment Study**

Mr. Foley gave an update of the Fairhaven Redevelopment Study. Mr. Foley stated he is focusing on "40R". He did reach out to the state and they said it looks like this area would be able to fall under the 40R district. He has reached out to other grants available for matching. He is reviewing the potential train shuttle to Fairhaven, a proposed Fairhaven Loop Shuttle to the NB Train Terminal.

Mr. Farrell asked about the Industrial Zone that is under this study. Mr. Foley explained the mixed-use south of Bridge Street, would be the target area for a 40R with higher density and mixed-use. The Industrial would be looked at as part of the overall redevelopment but not as part of the 40R. He said he also applied for a site

readiness grant. Mr. Foley reviewed 40R. He is having a meeting on Thursday to learn more. It is a way to create affordable housing.

Mr. Foley heard that a Jersey Mike's may be coming to Fairhaven and spoke to a franchisee that might locate a Domino's Pizza here.

Mr. Furtado (attended the meeting at 7:39p.m.) and wanted to weigh in about Stormwater. He said he wants to make sure the bylaw is consistent with what the BPW does now. He doesn't want his board to be hosting/conducting hearings on erosion control, something that BPW has never done and they just want to be consistent. He wants to make sure the by-law is written correctly. He said the main reason is the bylaw says that the BPW will issue and hold hearings for erosion control, and whereas they have never done that and they shouldn't be doing that. He said there are other departments that already do this and not the BPW. He said he wanted to put forth this last year, but it was pushed down because of COVID.

Mr. Farrell stated he would like to see the recommendations in writing from BETA and Mr. Foley stated he will forward them to the board members.

Mr. Foley stated the Complete Streets Consultant was on the call. Bill Scully, with Green International Affiliates working with Mr. Foley to develop a policy and a Tier 2 plan to make the town eligible for funding.

Mr. Scully stated the Mass Dot program has 2 filing dates, Spring and Fall, for grant money to implement and deadlines to submit the Tier 2 plan. In order to receive the Tier 2 plan, the policy needs to be adopted by Board of Selectmen and then scored by Mass DOT. They would then open the portal for upload. Plan submitted for April 1, 2021 or a few weeks before. The program has gotten more popular so review time is really necessary.

Mr. Scully advised there is a working group with Planning, Police, Fire, DPW, Bike committee and a few others. He said the draft policy is already out to them for review; ultimately it has to be approved by the Board of Selectmen. Mr. Scully explained the 'complete streets' is to consider the whole right of way with the principle being to think how the right of way is used for all users of all abilities such as pedestrians, elderly, persons with disabilities., motorists, children, etc. This is geared toward the Town-owned streets and does not apply to the state streets (rt. 6 for example). Complete Streets matter because they provide safe movement for all users, all modes. Helps create a more comfortable environment for a community, encourage improved health outcomes, enhance the vitality and viability of the business districts and village centers and provide choice of travel.

The program initiated in 2016, to provide assistance and incentives for municipalities to adopt complete street policies and practice. The program policy must be scored by MassDOT and attain 80 or more. Fairhaven filed a letter of intent to adopt a policy. Mr. Scully reviewed the CS policy and why? He said it creates a 'mindset'. The major components of the policy is vision and purpose, performance measures, core commitment, exceptions, implementation and best practices. Mr. Scully stated they are looking at 25 streets and things like missing sidewalks, handicapped ramps, stop signs, etc. He reviewed the Tier 2 prioritization plan example.

Mr. Foley asked the board members and or the community to view the website for information and make suggestions as to where and what we should consider and include. Mr. Farrell asked about funding and Mr. Scully advised how it works.

Mr. Lucas asked if this would include things like 'street lighting'. Mr. Scully said it can, but not necessarily. Mr. Lucas said that the Historical Commission in Town is working to add pedestrian friendly lights in the historic lighting. He advised where the lights would be going around Fairhaven Town Hall.

Mr. Scully said the wikimap survey has been on the website for the last month or two and we hope people will add more comments and suggestions.

Mr. Foley updated the next meeting's agenda on February 9, 2021, 46 Sconticut Neck Road definitive subdivision hearing, Lewis Landing and Roger School proposal. He discussed the February 23, 2021 meeting and then March 9, 2021 being the public hearing for short-term rentals tentatively.

Mr. Lucas said he would like to discuss the short-term rentals prior to the public hearing of March 9, 2021. He says he has a number of concerns to voice. Mr. Foley stated he can state that public meeting for the Planning Board to discuss and then a public hearing at the following meeting.

Mr. Lucas asked if there is a change of status on the Timothy Street. Mr. Foley said the Planning Board turned it down, the Applicant appealed, the Town responded and it is still in the courts. Someone said the Conservation Commission turned it down last night.

Cathy Melanson made a motion to adjourn and was seconded by Rene Fleurent. The motion passed unanimously at 8:40 pm via roll call vote.

Respectively submitted,

Patricia A. Pacella