



# FAIRHAVEN PLANNING BOARD

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Fairhaven Planning Board  
*Minutes*  
Tuesday, March 9, 2021– 6:30pm  
Town Hall, 40 Center Street,  
Fairhaven MA 02719

**1. GENERAL BUSINESS:**

- a) Chair's Welcome and Media Notification - Mr. Farrell opened the meeting at 6:31p.m. and welcomed everyone. He advised that the meeting is being recorded and going out live on Cable and was being done via Zoom per the Governor's orders because of COVID-19.
- b) **Quorum/Attendance** - Chairperson, John Farrell, Cathy Melanson, Jay Malaspino, Geoff Haworth, Jessica Fidalgo and Rene Fleurent. **Absent:** Jeffrey Lucas.
- c) **Joint Meeting of Planning Board and Board of Selectmen to review candidates to fill vacancy on PB** - Mr. Farrell stated there is a vacancy on the Planning Board. Mr. Foley stated he received a letter of interest from Mr. Hayward. The deadline was on Friday. Mr. Foley stated they have rescheduled the joint meeting with the Select Board to fill the vacancy on Thursday, March 11, 2021 with the Select Board. Mr. Foley will forward the information to board members to be present at the meeting.

Ms. Melanson asked about the ballot for the Town Election. Her and Mr. Malaspino were up for re-election. Mr. Farrell stated that Mr. Hayward did resign but things have changed, and he has resubmitted for the seat. Mr. Farrell stated that Mr. Hayward's seat would be left for one more term year. Ms. Melanson asked if Mr. Hayward takes the seat back if he would also have to write in for that seat as well in the up-coming election; and Mr. Farrell believed he would. Mr. Foley stated he would gather more information for their next meeting.

- d) **Minutes:** February 23, 2021 draft to be reviewed - Cathy Melanson made a motion to accept the February 23, 2021 and was seconded by Jessica Fidalgo. The motion passed unanimously via roll call vote with Mr. Farrell abstaining as he was absent.
- e) **Planning Board Bills:**
  - 1) \$1,117.50 GCG Peer Review - John Farrell made a motion to pay \$1,117.50. Mr. Fleurent asked why the fee was so high for GCG. Mr. Foley stated this was their sixth review for Lewis Landing. He explained one of the issues was for a waiver for runoff and the revised plan has a new system with chambers beneath the parking to hold the stormwater, which is completely different than previous plans. Mr. Fleurent asked if his assumption is correct that more design work was different than the original plan for stormwater. Mr. Foley explained that the Applicant actually pays the bill through the deposit account. Cathy Melanson second the motion. The motion passed unanimously via roll call vote.

2) \$81.00 Monaghan Printing for Envelopes. Cathy Melanson made a motion to pay \$81.00 to Monaghan Printing and was seconded by Jessica Fidalgo. The motion passed unanimously.

- f) **Correspondence:** Yankee Lane Bond Security - Mr. Foley explained Yankee Lane Solar is getting ready to develop this land that was approved a few years ago. They have come back to Planning Board for their Bond Security. He stated that Attorney Crotty had concerns that in a worst case scenario in 10-15 years if the project is beyond the point of diminishing returns the solar panel developer may theoretically just walk away and stop payment on the bond that pays for the panels to be decommissioned in the future. Mr. Greg Carey and Mr. Crotty went back and forth with some draft language to address this. If they were going to walk away, they would have to let the Surety Company know with a longer advance time and submit letters to the Town at the same time. Mr. Foley said that Attorney Crotty was satisfied with the revised language.

Mr. Fleurent asked if one of the projects gets decommissioned or they walk away from the project, the bond will cover having the land back to its original designation. Mr. Foley stated that is correct as that is what the Planning Board requires.

- g) **Planning Board TA Advisory Committee Representative Report** - Mr. Farrell stated he was part of the TA Screening Committee and they put forth three candidates. He said they have heard from Bernie Lynch, who was the consultant, and that one candidate is a finalist for another opportunity in Lakeville, and Mr. Lynch believes that he will be withdrawing from Fairhaven in order to pursue that opportunity. Mr. Farrell stated that the other two candidates are still interested in Fairhaven's TA position. Ms. Melanson, who was also on the committee, stated she was just going to see what happens on Thursday with the interview that is coming up.

Mr. Haworth asked if the committee would meet again to introduce a third candidate.

Mr. Farrell stated the committee has not received any other correspondence that they will be meeting again.

Rene Fleurent asked if there had to be three candidates recommended. Mr. Farrell stated at one point they had considered four, but one of the finalists had been removed with a vote.

## **2. PUBLIC HEARINGS:**

### **a) Receipt of Plans:**

#### **i. *Proposed Pier at 2 Oxford Street***

Mr. Foley stated there was a proposed pier at 2 Oxford Street. He said there was a proposal with 5 different births for at least 4-5 boats. Although terming a commercial pier, he stated there was nothing in the bylaw to advise this has to go through Planning Board. He said that the Building Commissioner and he spoke, and they will eliminate the word 'private' from the bylaw.

Mr. Fleurent asked if a commercial pier can go in a residential area. Mr. Foley stated it was multiple docks. It would probably trigger Special Permit Review but it is in a Residential District and that is not covered by 198-29. Mr. Fleurent thought that Bed and Breakfasts were in their own district. Mr. Farrell asked if any plans had been received on this proposed pier. Mr. Foley stated that Mr. Carmichael did forward the electronic plans to Mr. Foley stating that he thought the pier would go in front of the Planning Board.

Mr. Haworth stated he has the plans, as they visited Conservation Commission the night before. Mr. Haworth stated it was a 115' foot dock with 3 finger piers on it; and a very large structure. Mr. Farrell asked what the definition of 'marina' is in the bylaw.

Mr. Foley reviewed the bylaw that you couldn't be over 75' outside of the Hurricane barrier; inside they could not be over 150' with all the attachments. Mr. Haworth stated the harbormaster was also on the Conservation meeting and stated there would be room for at least eight boats with the length of this pier. Mr. Foley stated that the Planning Board is not the regulatory board for a Special Permit in the RA District. There is another project that might trigger 198-29 in the RA so we should think about how to address these. Mr. Farrell stated they would continue the discussion.

**Chapter 91 Bella Vista Island** - Mr. Foley stated he received plans from Richard Rheaume. Mr. Rheaume explained there is a causeway and bridge; he said it's not passable at high tide because of the sand underneath and that DEP wants the dredging of the sand underneath to be removed and the sand to be put on the beach. He said that this is in front of the Conservation Commission at this time. He said the plans are submitted via waterways. He said presumably the Planning Board would be in favor of the dredging and the sand to be deposited on the beach. He said they would be back before the Planning Board in the near future when they are finished with the Conservation Commission.

b. Public Hearings:

- i. **DS 2021-01 – 46 Sconticut Neck Road (Alves) Definitive Subdivision: Continued** Public Hearing on Definitive Subdivision Plan to demolish a house and create an 8-lot subdivision located at 46 Sconticut Neck Road.

Mr. Farrell read the DS2021-01, 46 Sconticut Neck Road (Alves) definitive subdivision and stated that they have asked for a continuance.

Mr. Foley said the next Planning Board meeting would be March 23, 2021 with two hearings already scheduled. Mr. Farrell thought they were at the finish line with this applicant and would be okay with it at the next meeting. Mr. Foley said they need to review the peer review comments. He said the applicant was a bit surprised by the Peer Review because the changes came from the Army Corps of Engineers. He spoke to the engineer who said they may want to go back to GCG. Mr. Foley asked if he should allow to go back for another peer review, as long as there was enough money in the account. Mr. Farrell asked if he wanted to go back to GCG before coming back to Planning. Mr. Farrell suggested if there are no issues from GCG from the last peer review than they should just come back in front of the Planning Board. Mr. Farrell asked Mr. Foley to reach out to him before the end of the week.

Geoff Haworth made a motion to continue DS 2021-01, 46 Sconticut Neck Road (Alves) Definitive Subdivision at the applicants request to March 23, 2021 and was seconded by Cathy Melanson. The motion passed unanimously.

- ii. **SP 2019-13 – Lewis Landing/Huttleston Multi-Unit Rentals:** Continued Public Hearing on proposal to create 12 two-bedroom rentals in 4 buildings on Huttleston Ave (M 31 L 117C). Mr. Farrell read the SP2019-13 Lewis Landing/Huttleston Multi Unit Rentals for the record. He then introduced the Board members. He asked if there were enough board members on tonight to vote. Mr. Farrell asked if Mr. Hayward would be eligible to vote if he returned on Thursday.

Mr. Farrell apologized to Mr. Rheaume for the recent continuances due to quorum issues.

Mr. Rheaume said that he would be okay with it continuing until the next meeting. He also suggested another alternative, with the election coming up in the near future, if there were quorum issues at the next meeting, they

would ask to withdraw and reapply, perhaps with a waiver of the fee and complete a single presentation at that time, with hopefully a full board.

Mr. Farrell said that would be up to the applicant, but he did agree that the election may bring upon a complete new board. Mr. Farrell wasn't sure they could waive the reapplication fee. Mr. Rheume said they would be agreeable to notifying the abutters and pay for the advertisements.

Mr. Foley said the first meeting next month is April 13, 2021.

Mr. Malaspino said his last meeting would be the next meeting, March 23, 2021. He agreed it might be a good idea that Mr. Rheume is suggesting if there is no quorum on the 23<sup>rd</sup>, then they would file for a withdrawal.

Mr. Haworth made a motion to continue SP2019-013, Lewis Landing to March 23, 2021 at the applicant's request and was seconded by Cathy Melanson. The motion passed unanimously via roll call vote.

### **3. CURRENT PLANNING:**

Possible New Bylaws for Review: Draft Short-Term Rentals, 198-33 definitions, MS4 mandatory update; NFIP mandatory update.

Mr. Foley gave an update on the possible new bylaws for review. Mr. Farrell asked if there was any feedback from the residents. He said he has seen some social media comments. Mr. Haworth asked if there was a public hearing scheduled as of yet.

Mr. Foley explained that if they limit Short-Term rentals to only be allowed in owner-occupied buildings then a lot of the other issues go away. So if some one has a one or two family or multi-family dwelling units in which one of the units is an owner-occupied primary dwelling then they could participate. That would stop speculators from buying houses and turning them into rentals.

Mr. Foley said the remaining questions that needed to be answered were, how many calendar days per year? How many units can one owner, wholly or partially maintain in the Town.

Mr. Foley also explained that if the rental was fourteen (14) days or less it would not qualify for Short-Term Rental per the state law, but once it hits the fifteen (15) days then you'd be required to pay the rooms tax, have a \$1 million liability policy, and register with the state, per the state law. He also stated rentals over thirty-one (31) days at a time is not a short-term rental. He said one to twenty-nine days is a short-term rental.

Mr. Haworth asked if the bylaw definitions defined owner-occupied. In Florida you have to live there a certain number of days. Mr. Foley said a few definitions have been reworked and discussed by him and Mr. Carmichael and that he will make sure that owner occupied is one of them that is defined.

Mr. Farrell said they need to break it down to discuss and roll out to the public. He said they should get some discussion out to the public at the next meeting. Mr. Foley stated he would like to invite Mr. Carmichael for discussion to the next meeting. He said he would also post the drafts on the website as well as the definition drafts.

Ms. Fidalgo asked if the wording in the draft bylaw states if it's for more than 30 or more days is not a short-term rental or is it one "renter". She also questioned whether it becomes a short-term rental because it is more than one renter?

Mr. Foley said if it is one renter for 31 days it's not a Short-term rental. He gave an example: If you rent 15 days to one person it is short-term rental; if you do 14 days, that would not be a short-term rental. He explained once you hit 15 days that triggers the STR. The next discussion would be how many calendar days per year.

Mr. Farrell said he feels he has to get his head around if this is really a problem and the timing that we put this proposal out to the community. He said they are not doing it for revenue as some people have commented. As it is the Building Commissioner stated he would have to add staff. He said technically it's about property values and neighborhoods; but then again, he questioned if someone needed to afford to keep their house in these trying times and thought about renting it out to make some income, would they be able to do it.

Mr. Haworth said a lot of this has to do with quality-of-life issues. He said a lot of people don't want to be that neighbor that calls police enforcement, but that he has seen houses being bought up to house mini-hotels in residential zones.

Mr. Farrell said he said he wants to hear from the public and encouraged Mr. Foley to give people the access to talk about this publicly. Mr. Foley said he would make the STR issue more prominent on the PB webpage.

Mr. Fleurent said he was not in favor of short-term rentals and doesn't know if they are opening a can of worms putting this forth. Mr. Farrell said that they are aware it is happening, and now it may be time to regulate it. Mr. Fleurent said he was not in favor of allowing people to rent out their homes in this fashion. Ms. Melanson said she agrees to open it up for discussion to the public.

Mr. Farrell said he would like to hear from Chief Myers to see if there a lot of complaints coming in currently from these properties. Ms. Melanson said she agrees some type of regulation needs to happen, and she agrees that it is happening in our Town. She said she too would like to start hearing from the public.

Mr. Farrell said they needed to identify the current impact. He would like to hear from Chief Myers if there are nuisance calls. He also advised Mr. Foley that they need to start more work sessions on the agenda to hear from the public. He said he would like to hear from people that do it successfully.

Mr. Foley said he will put on the website so the public can easily locate the information. He stated he has heard a number of complaints about rentals in Fairhaven and concerns from neighbors. He advised he would route the short-term bylaw paperwork through departments to see if they had comment. They will continue discussion at their next meeting and hold a public meeting on April 13, 2021.

Mr. Fleurent said he lives on West Island and he is aware that it is happening.

Mr. Foley said that fifty-six air bnb's are registered with the State in Fairhaven. He said that he saw one listed on Farmfield Street year around for \$750/night. He said last month, Mr. Lucas brought up some good concerns regarding medication or guns in the home by property owners. He said one thing is that this drives up housing prices and people are going to buy homes just to do rentals.

Mr. Farrell reiterated he wants to hear from the public.

**MS4 Update:** Mr. Foley said this was a mandatory update and he will update information to the website.

**NFIP LFD deadline is July 6, 2021:** Mr. Foley has sent this to the state coordinator and the public hearing will be scheduled for either April 13<sup>th</sup> or April 27, 2021. Mr. Farrell recommended April 27, 2021.

4. **Town Planner Update:** Complete Streets Policy & Plan; Bask Opening; Rogers & Oxford School Updates; Online Permitting; SRTA; Site Readiness Grant; Sycamore Street.

Mr. Farrell congratulated Mr. Foley on receiving a \$75,000 site readiness grant.

Mr. Foley said they will work with a Project Manager from Mass Development who will review the whole target area and work on site constraints, the landfill and environmental issues at potential development sites. He said this will hopefully open up site for development or at least identify sites that need further work and possible Brownfields grants in the Rte. 6/240 targeted area. He said Brownfields sites would be eligible for an assessment grant (up to \$100,000) and then clean up grants (may receive up to \$500,000).

**Complete Streets** - Mr. Foley updated that the Board of Selectmen had approved the policy which was approved with flying colors by MassDOT. The draft Prioritization Plan is being reviewed this week and due by the end of the month. Mr. Foley stated he has a meeting with the Bikeway Committee on Wednesday and a meeting with the Complete Streets Advisory Committee with a second draft of the priority plan that is due April 1, 2021. Mr. Foley stated if that gets approved, they would be eligible for up to \$400,000 annually to implement projects on the approved plan. He will put up the draft Prioritization Plan on the Complete Streets web page. Mr. Foley discussed a possible one-way loop on Middle Street connecting the bike path to the railway. Mr. Foley said a discussion with Chief Myers said he was looking at south of Washington on Middle/Main street. Mr. Foley encouraged the members and the public to forward comments to him.

**Bikeway committee** started to meet again - 3<sup>rd</sup> Wednesday of the month.

**Rogers RFP Bid:** Mr. Foley said the Board of Selectmen rejected the current proposal. Mr. Foley explained a Mass Development Umbrella Grant Program, that encompasses many grant programs under one umbrella. He said it identifies five different areas for a redevelopment study. He said if the Rogers School came back to the Town, he would include it with the possible sites for underutilized structure grants.

Mr. Farrell asked about the last developer, Zach Mayo and if the Selectboard liked that proposal. Mr. Foley said they did accept that proposal, but then the deadlines were never met by the developer. Mr. Foley said for now the town was going to move forward with mothballing the building.

**Oxford School:** Mr. Foley said this project is moving forward. He stated that the developer said that Mass Historic requested that they reconsider the gable roof which is how they ended up with a flat roof. Mr. Foley has a contact at Mass Historic and was in touch with him, he tried to speak to the person that the Oxford School developer used, but that person wouldn't talk to him. He said they are moving forward with 52 units.

**Bask Recreational** - Mr. Foley said that Bask Recreational opened Saturday. He said he meets with Deputy Nichols and Captain Botelho on Tuesdays and there have been no traffic issues. He will have on the next agenda to move forward with phase 4 of the opening plan.

Mr. Foley said a new host agreement came before the Board of Selectmen for a recreational agreement at the corner of Alden and Bridge Street. Mr. Foley stated the overlay district does cover that corner. The second company that received a host community agreement was looking at that corner as well. We let them know that site may create more problems than the Bask site.

**BIJOU** - Mr. Foley said the applicant has applied for a special permit and the public hearing is slated for April 13, 2021; although Mr. Foley recommended a new set of plans, the applicant wants to move forward with the plans he has. Mr. Farrell asked if they were stamped by an engineer. Mr. Foley said the existing plans are stamped by

an architect and they have added fire protection, fire alarms throughout the building. Mr. Farrell asked if they have added sprinklers. Mr. Foley said the applicant was trying to stay below the threshold for requiring sprinklers. However, he still needs to go through the Building Department with full proposed plans for the building.

**Building Department** - Mr. Foley advised the Building Department has gotten online permitting now. It is a lot easier and going well because it is user friendly.

**Sycamore Street** - EPA Road. Mr. Foley said he had received a few calls regarding the end of Sycamore Street where there is a paper road that ends in Acushnet. Mr. Foley stated that all the trees have been cut and there are big stones there. He said the EPA was going to use the space as their staging ground for PCB removal. Mr. Foley stated that Dave Pederson, from the EPA sent plans to BPW, who then forwarded to Mark Rees back in December and the plans never were routed through the Planning Department or Board. He said this should've come before the Planning Board as it is a street right away, and all streets, building etc. are supposed to go to Planning Board for review.

**Synthetic turf** - Mr. Foley advised the synthetic turf for the high school triggers Chapter 65 and 316 to the Planning Board. He said it should have come before Town Meeting approval. He said they also need to go to Conservation Commission because a corner of the field is within 100' of flood zone - AE zone which requires conservation review. He said they also have plans of a storage shed with bathrooms. Mr. Foley stated they need to come before planning board and will be on a future meeting. He said new baths and storage may trigger 198-29, but similar to the boat dock on Oxford, this is in a Residential District, so 198-29 does not apply. At least that is how he reads it, needs to be clarified.

Cathy Melanson made a motion to adjourn and was seconded by Jessica Fidalgo. The motion passed unanimously at 8:14p.m.

Respectively,

Patricia A. Pacella  
Recording Secretary