



FAIRHAVEN PLANNING BOARD

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Fairhaven Planning Board
Minutes

FAIRHAVEN,
MASS.

Tuesday June 8, 2021– 7:15pm
Town Hall, 40 Center Street,
Fairhaven MA 02719

1. **GENERAL BUSINESS:**

Chair's Welcome and Media Notification: Mr. Hayward opened the meeting at 6:43p.m. and read the Media Notification put forth by Governor Baker from March 10, 2020.

Quorum/Attendance:

Present: Vice Chairperson, Wayne Hayward, Cathy Melanson, Rene Fleurent, Jeff Lucas, David Braga and Geoff Haworth (arrived at 7:15pm).

Absent: John Farrell and Jessica Fidalgo

Minutes: May 25, 2021 drafts to be reviewed. Mr. Hayward read from the minute's line 221 and 222, that his condition was for Map 29A, Lot 168-169 and should read that this map and lot owner would have the sole responsibility for maintenance of the road; and put forth that motion with the amendment to approve the minutes. The motion was seconded by Mr. Fleurent. No further amendments. The motion passed unanimously via roll call vote. (5-0).

Planning Board Bills:

FNN - \$76.66 for GBZ RZ - Jeff Lucas made a motion to pay the Fairhaven Neighborhood News (FNN) \$76.66 for the GBK rezone and was seconded by Cathy Melanson. The motion passed unanimously.

FNN - \$153.34 for 198-16 and Solar Text Amendment - Jeff Lucas made a motion to pay \$53.34 for the advertising of 198-16 and Solar Text amendments and was seconded by Cathy Melanson. The motion passed unanimously.

FNN \$170 for 46 SNR DS - Jeff Lucas made a motion to pay the FNN for the 46 Sconticut Neck Road definitive subdivision advertisement and was seconded by Cathy Melanson. The motion passed unanimously.

FNN \$150 for Crow Island SP - Mr. Lucas made a motion to pay the FNN \$150 for advertising the Crow Island Special Permit and was seconded by Cathy Melanson. The motion passed unanimously.

FNN \$160 Lewis Landing SP - Mr. Lucas made a motion to pay the FNN \$160 for advertising the Lewis Landing special permit and was seconded by Cathy Melanson. The motion passed unanimously.

Ready Refresh \$5.39 for May 2021 - Mr. Lucas made a motion to pay \$5.39 to Ready Refresh and was seconded by Cathy Melanson. The motion passed unanimously.

Mr. Hayward stated at this time there are public hearings scheduled for this evening, however he stated there are only five members present but to issue a Special Permit it requires six positive votes by the Planning Board. Mr. Foley stated that Mr. Haworth would be joining shortly via zoom.

2. PUBLIC HEARINGS:

Public Hearings:

- a.) **SP 2021-01 – Bijou Theater Building Apartments:** Continued Public Hearing on proposal to renovate theater.

Mr. Hayward opened up the public hearing for SP2021-01 Bijou Theater Building Apartments.

Attorney Michael Medeiros was present on behalf of his client, Julio Barbosa; he stated that Mr. Hayward referenced it as a proposal to renovate the theater, but he wanted to make it clear it was not the renovation of the theatre that was taking place.

Mr. Hayward stated that if they take testimony then the two missing members would have to file a Mullins in order to vote at the next meeting or they could ask for a continuance to a date certain, which would be the June 22, 2021 meeting.

Mr. Foley stated that Mr. Fleurent was not at the April 13, 2021 meeting and Mr. Fleurent believed he was in attendance. Mr. Foley stated that Mr. Haworth stated he would be arriving soon.

Attorney Medeiros stated they would ask for a continuance.

Cathy Melanson made a motion for SP2021-01-Bijou Theater Building Apartments to be continued per the applicants' request to June 22, 2021 and was seconded by Jeffrey Lucas. The motion passed unanimously. (5-0)

- b.) **TE 2021 - Definitions and Use Tables:** Continued Public Hearing on proposed *Text Amendments* to make changes to §198-33, Definitions and word use.

Mr. Hayward opened up the continued public hearing for TE 2021-Definitions and Use Tables. He said they had previously discussed just doing the text amendments.

Mr. Foley explained what the motion would be at TM to add the proposed additions to 198-33 definitions. He said that he had a discussion with Attorney Crotty who agreed. Mr. Foley said what was written in the warrant were the changes they discussed (with strike and bold, and a few notes in the margins); although he didn't send it that way; therefore the motion would be to accept the definitions as written in the warrant with an amendment to remove some of the notes that are still in the warrant that should be taken out.

Mr. Foley said that these are definitions that come right from Massachusetts General Law and were put together by the building inspector who had these requests. He said they clarified the definition for variance and added a sentence that exists in the State Definition but not in the local definition.

Mr. Hayward asked if there was any public comment, to which there were none.

Jeff Lucas asked about the 'summer camp for children' and whether or not section 429 specified the age limit. Mr. Hayward said he questioned that as well and asked if section 429 is in MGL or something else. Mr. Foley said he was not sure what the age is but that it is a state limitation. Mr. Lucas said it was ambiguously written.

Mr. Hayward stated that he understood the building commissioner was in support of all these changes and asked if Attorney Crotty reviewed as well, to which Mr. Foley said he did.

Mr. Lucas said he'd be in favor of voting in the positive, however he would like to know what the section 429 is referencing and for them to be able to clear up that matter at a future Town Meeting. Mr. Hayward said the planning board is the petitioner on the article and could make an amendment on the floor. Mr. Lucas asked them to at least identify what section 429 references, whether it was MGL or CMR. Mr. Hayward explained how it would be handled on the floor at Town Meeting.

Cathy Melanson asked if she could make a motion to accept.

Mr. Fleurent asked if the 'townhouse' definition needs to say single family dwelling unit, or can it be say "multi-unit".

Mr. Hayward explained that the definition of townhouse is a group of single family dwellings side by side in clusters, 3 or more as noted in definitions. He said if you had two side by side that would be a duplex, not a townhouse.

Mr. Haworth joined the meeting at 7:17p.m. He stated he asked about "temporary" vs. "portable" being in the definitions but had no further comments. Mr. Foley stated that temporary means 180 days but that this document needs to be worked on going forward for a future town meeting and that "portable" was not included as it was suggested after the warrant had closed.

Cathy Melanson made a motion to accept the proposed additions to 198-33 definitions for town meeting and was seconded by Mr. Lucas. The motion passed unanimously (6-0).

c) **SP 2021-03 – Lewis Landing/Huttleston Multi-Unit Condominiums**: Public Hearing on proposal to create twelve (12) 2-bedroom condominiums in four buildings on 2.5-acre on Huttleston Ave (Map 31 Lot 117C).

Mr. Hayward opened up the SP2021-03 - Lewis Landing/Huttleston Multi-Unit Condominiums public hearing.

Engineer, Rich Rheume was present along with Dana Lewis and asked Mr. Lewis if he wants to go forward tonight because if there was one negative vote the project would fail.

Mr. Hayward stated this was before us in the past and then withdrawn. He stated they reapplied with the new members so it's taken as a new application. Mr. Foley stated they could start the public hearing and listen to the staff report and testimony and then the two missing members could review the minutes and the tape and file a Mullins to vote at the next meeting.

Dana Lewis said he has no idea what to do. He said he feels like he's been taken advantage of and that they've been at this a long time, with a lot of peer reviews and he feels they have answered all the questions being asked of them.

Mr. Foley stated this starts as a new public hearing and it has to be presented in full. Mr. Hayward suggested they take care of some business this evening with the project, so it's not another two weeks until they get the information. Mr. Foley read in for the record the legal advertisement for SP2021-03, Lewis Landing.

Mr. Rheume stated he was okay proceeding. Mr. Rheume reviewed the project on Huttleston Avenue, near New Boston Road and Gellette Road. He referenced the revised plans dated January 28, 2021, stating the proposal was for four buildings with three units each. He feels they have satisfied the boards concerns as well as the peer reviewer. He reviewed the proposed waivers they are requesting on the project. Mr. Rheume also stated they meet the Planning Board's stormwater standards. He said the project has municipal water and sewer and the basin area will be maintained by a professional company paid by the unit owners association. He reviewed the landscaping plan with the board members and elevation views as well.

Mr. Foley reviewed his staff report. He said they have to go back to Conservation Commission for a few things as well as BPW. In particular, if approved, they will have to go back to Con. Comm. for work on the manhole which is in the wetlands. He gave an overview of the project history. He also reviewed the peer review report from GCG dated February 22, 2021 regarding the infiltration chambers. He reviewed the comments from the department heads when the plans were routed.

Mr. Foley reviewed the zoning and special permit criteria that the Planning Board reviews in their decision. He said the key issue, beyond stormwater, is the additional traffic at the new curb cut on Route 6 at a location just after a blind curve where people exceed the speed limit between two problematic intersections with high crash rates.

Mr. Rheume stated the original police comments were from when they had two site driveways into the project, however they have since removed the West driveway that is going in. Mr. Rheume spoke about the transportation concerns regarding the peak hours of travel in that area. He also commented on the infiltration chambers that seemed to be a concern from GCG. He said during construction they would be able to accommodate them and review as necessary.

Mr. Hayward asked about the 12" pipe that is proposed on the site for infiltration and Mr. Rheume explained that. Mr. Hayward also asked if the proposed erosion plan would be sufficient to the MS4 plan, to which Mr. Rheume stated it did.

Mr. Lucas asked about the roof drains that go into infiltration and the volume of runoff water.

Mr. Rheume stated there is no increase in the volume or rate of runoff at this site with this plan. That seemed to be one of the key sticking points with the previous plan. He said the infiltration chambers are 30.5 inches high with crushed stone underneath and on top of them; he said they did so one test in the back and are not too concerned with the water table.

Abutter and resident, Mr. Bekemeier was on the call and asked about the pond/stream that is fed by wetlands behind his house. He was concerned about the flooding that will still take place there. He said he feels bad for the property owner as he was sold a bad piece of property, however he does not see this as a viable project.

Mr. Hayward said he has been considering the two pipes running into the manhole in the wetlands. One appears to be for Route 6 and acts as a culvert, taking the water on the east side of Route 6 and its mission is to transport all the way through the site to Brookview. The problem is that the manhole collapsed and dumped the water into this property. He said if it is fixed the water that goes through the culvert will go through the manhole and drain off to Brookview rather than this site.

Abutter and resident, Dave Vincent stated he lives on the SW Corner and is opposed to the size of the project. He said he has concerns that the water will end up on his property.

Mr. Rheume stated he has designed it to work and the peer reviewer has indicated that as well.

Cathy Melanson and David Braga had no questions.

Mr. Haworth stated that at some point they have to make a decision and move forward. He said that the project has gone back and forth in peer reviews and he feels it's gone on too long.

Mr. Lucas said that the point is that we all need to make sure the project is going to work. He said that they are progressive in moving it forward but haven't been able to vote up until this point.

Mr. Fleurent asked Mr. Rheume if a traffic analysis has been done. Mr. Rheume stated they have and explained it to him. Mr. Fleurent stated he grew up this area and had concerns of the traffic and speed in this area, traffic flow and the school across the street. Mr. Fleurent asked if there was an option to downsize and Mr. Rheume said, 'no.'

Mr. Hayward stated this would be a continuance until the next meeting.

Mr. Fleurent asked if the applicant would consider a smaller facility; and Mr. Rheume stated they would not.

Mr. Fleurent asked about the Rt. 6 corridor study done in this area and there was an injury near where this project is going. Mr. Hayward stated it was on the corner of Gellette Road and Route 6.

Cathy Melanson made a motion to continue, SP2021-03, Lewis Landing/Huttleston until June 22, 2021 and was seconded by David Braga. On the question, Mr. Foley asked Mr. Hayward to ask for public comment. Mr. Lucas said that it should not be called "condominiums" as the project is for rental apartments. The motion for the continuance passed unanimously.

d) Other Reviews:

a) Oxford: Form A (ANR) for Oxford School Residences

Mr. Foley stated he received the hard copy and Mylar today. He said it's housekeeping and should have been done a few years ago. He explained the Form A Plan is intended so that the North Fairhaven Improvement Association (NFIA) located in the fire station sits on its own lot.

Mr. Fleurent asked if they are creating one big lot. Mr. Lucas clarified that the NFIA lot is being taken out to create its own lot and the Oxford School is going to be its own one lot.

Mr. Hayward explained it's not a subdivision plan, it is a Form A, approval not required, plan.

Mr. Fleurent asked what they are exactly voting on. Mr. Foley explained.

Mr. Haworth asked if this separate lot is being separated as an exemption because it is Town Property and doesn't meet the frontage or square footage to be its own lot.

Mr. Foley stated it doesn't meet the lot size, but does meet the frontage for Mixed Use. However, it was pointed out this is in the RA Single Residence District with a bigger frontage requirement.

Mr. Hayward stated it may not technically meet the ANR provisions. Mr. Haworth expressed concern that it may come back on them that they make rules up for the Town but not for the general public. Cathy Melanson said they should approve it as it's a long time coming. Mr. Fleurent questioned if there is a concern about the Town who may want to sell it off in the future.

Mr. Hayward called for the vote. Mr. Hayward, Mr. Braga and Ms. Melanson were in favor. Mr. Lucas was not in favor and Mr. Haworth recused himself from the vote stating he doesn't agree with it. The vote failed to sign the ANR. Mr. Foley said he would clarify the outstanding issues for the next meeting.

Ms. Melanson left the meeting at 9:20p.m.

b) Sebec St. stub: Question of Planning Board interest in property formerly part of Sebec Street.

Mr. Foley advised there were court proceedings regarding the stub as formerly part of Sebec Street. He reviewed the plans that he researched showing it as part of Sebec Street in 1922. In the 1960's there was a plan to Discontinue the stub of Sebec south of Hacker Street but that it was not signed and he did not see it on a warrant to discontinue. In any case Assessor plans after that have a dotted line showing where the street used to be but that the property boundary was down the middle of what was once Sebec Street on paper. Mr. Foley stated that the judge in the court case specifically asked for a determination from the Planning Board whether or not this is an interest to the Town.

Mr. Lucas suggested routing it to BPW. He said that he believes in this matter the Board of Selectmen should be making that decision, not the Planning Board. Discussion with Mr. Fleurent on why the two different boards.

Mr. Hayward clarified it further that this is a paper street which was apparently discontinued years ago. He said the Select Board wouldn't have any interest.

Mr. Hayward made a motion to advise that the Planning Board has no interest in the Sebec Street stub and it was seconded by Jeff Lucas. The motion passed unanimously (5-0).

Mr. Hayward stated that there is a shed on the stub; he doesn't know why the planning board would be interested in it.

3. CURRENT PLANNING:

a) Town Planner Update: Site Readiness Tour; 1-Stop for Growth; Union Wharf Study

Mr. Foley submitted a planning grant to the Executive office of Environmental Affairs and one to the 1-Stop for Growth program for the Route 6/240 plan and received a few letters of support.

Town meeting, June 12, 2021. He will reach out to Mr. Farrell and Mr. Hayward on who will be making the motions.

Mr. Foley stated he did receive new rezone plans from G. Bourne Knowles without the proposed buildings as requested.

Next Meeting: June 22, 2021.

Mr. Hayward asked about article #59 at Town Meeting, the Stormwater Authority Group. Mr. Foley stated that Mr. Furtado will make two motions. The first will be to just accept the one line that is mandatory; and the other motion will be to table the rest. He said they could then appoint a subcommittee of this board to review other options.

Jeff Lucas made a motion to adjourn and was seconded by Rene Fleurent. The motion passed unanimously at 9:33p.m.

Respectively submitted,

Patricia A. Pacella
Recording Secretary