



FAIRHAVEN PLANNING BOARD

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

RECEIVED
TOWN CLERK

PLANNING BOARD MINUTES
TUESDAY, APRIL 12, 2022

2022 APR 29 P 2: 55

FAIRHAVEN,
MASS.

1. **GENERAL BUSINESS:**

- a) Chair's Welcome and Media Notification: Mr. Hayward opened the meeting and read the information for meetings under Governor Baker's regulations due to COVID.
- b) Quorum/Attendance: Present: Mr. Hayward, Mr. Lucas, Ms. Cathy Melanson, Jessica Fidalgo, David Braga and Kevin Grant.

Absent: Sharon Simmons and Rene Fleurent, Jr.

- c) Welcome to new members of the Board: Mr. Hayward welcomed newly elected Kevin Grant and Sharon Simmons to the Planning Board.
- d) Board Elections: Mr. Foley opened the nominations for Chairperson.
Chair: Jeff Lucas nominated Wayne Hayward. There were no other nominations. All in favor.

Vice Chair: Cathy Melanson nominated herself. No other nominations. Mr. Foley declared the nominations closed and all were in favor of the nomination.

Clerk: Cathy Melanson nominated Jessica Fidalgo for Clerk. Mr. Foley declared nominations closed. All in favor of the nomination.

SRPEDD Commissioner: Cathy Melanson nominated Jeff Lucas. He declined.
Wayne Hayward nominated David Braga he stated he would make it work. Mr. Foley declared nominations closed. All in favor of the nomination via roll call vote.

Economic Development Committee Appointment: Mr. Hayward nominated Jessica Fidalgo and she accepted. Mr. Foley closed out the nominations. All voted in favor via roll call vote.

Mr. Foley turned the meeting over to the Chairperson, Wayne Hayward.

Rogers Re-use Committee: Jeffrey Lucas nominated Wayne Hayward. Cathy Melanson nominated herself.

Voting for Cathy Melanson: Jeff Lucas voted no. Kevin Grant, no. Wayne Hayward, no. Cathy Melanson yes, Jessica Fidalgo yes; David Braga, no.

Board vote for Mr. Hayward: Jeffrey Lucas yes, Kevin Grant yes, Wayne Hayward yes. Cathy Melanson no; Jessica Fidalgo no; and David Braga yes.

Mr. Hayward has been voted for the appointee representative on the Rogers Reuse Committee.

Mr. Hayward reviewed the Planning Board regulations that a quorum on the Planning Board is five members. Mr. Hayward reviewed the Special Permit regulations need six members to pass.

- e) Minutes: March 22, 2022 draft to be reviewed: Ms. Melanson made a Motion to accept the minutes as written and was seconded by Mr. Lucas. The Motion passed unanimously.
- f) Planning Board Bills: FNN \$210.00 for the advertisement of Wash Ashore Carwash. Mr. Lucas made a motion to pay FNN \$210.00 and was seconded by Ms. Fidalgo. The motion passed unanimously.
- g) Correspondence: Mr. Foley stated there were some correspondence however it was just announcements. He said there was a training next Thursday for writing overlay by-laws. Ms. Melanson, Ms. Fidalgo, Mr. Braga and Mr. Lucas said they were interested in attending.

2. **PUBLIC HEARINGS:**

a) Public Hearings:

- i. SP 2022-01 Huttleston Car Wash: Continued Public Hearing on proposal to redevelop 128 Huttleston Avenue with a new car wash and automobile detailing facility, including associated parking, access drives, vacuum stations, landscaping, stormwater measures and utility infrastructure.

Mr. Foley said there were six members present and that is what is needed for an approval on a Special Permit. He noted they lost Mr. Farrell but that Mr. Grant has reviewed the recording and filed a Mullins. The Applicant was in attendance in the Banquet Room and stated they would like to proceed.

Mr. Foley gave a quick overview of the project. He went over the revised site plans for the car wash on Huttleston Avenue. They have to go to Massachusetts DOT for the curb cut and showed the revised proposal plans noting that they removed the parking space closest to Route 6 with planting and lost a total of 2 parking spaces.

Mr. Foley reviewed the peer review and advised that there were only a few issues. Among the suggestions he agreed with were that the peer reviewer suggested they add a stop line on the ground between the vacuum area and exit to conveyer, add the vacuums to the site plan and details page and show the snow storage area. The applicant said they had removed the pea stone diaphragm with a forebay as requested in the Peer Review. There was also an "anomaly detected" in the soil boring logs that the applicant needs to address.

Petitioner Michael Sullivan who represents the LLC for the Car Wash was present in the Banquet Room. He explained the project briefly as they are proposing an express car wash with a 120' tunnel with conveyer. He said everything is enclosed and basically it is a higher level wash than your self-service. Their focus is on customer service. He said they have a similar car wash in Plymouth and the concept in Fairhaven will be similar to that one.

Mr. Hayward asked about the sign location but said he wasn't able to see any issues. Mr. Sullivan stated they are back 20' and up 10' where they don't see any issues with signage.

Mr. Hayward stated the remaining concerns are some of what the peer review pointed out.

Mr. Sullivan stated because of the water table they really had nowhere to drain off excess water.

Nick Clini of Atlantic Design was present. He said they couldn't recharge any of the water because of the water table and that's why it's directed and designed as is. Mr. Hayward asked if it can be directed to the wetlands. Mr. Clini stated most on the east side of the property is being directed to wetlands and on the other side to the rain garden.

Mr. Hayward stated the peer review asked to see a bit more pre-treatment. Mr. Hayward asked about a filter strip.

Mr. Clini explained the rain garden on the site. He said they are restricted with the distance and didn't have much flexibility in the area. He said they could add infiltration zones with big stones. He said it was a Class D soil type.

Mr. Lucas asked about the slope on the rain garden. Mr. Clini said it was 3:1

Mr. Hayward reflected on the island and wondered aloud why it was so long. Mr. Clini said it was designed to control the traffic and keep vehicles in the cue to reach the tunnel or the back where there were vacuums. Mr. Sullivan explained it further in saying that there is a turnout lane. He says by keeping the cars in cue it does keep traffic running smoothly.

Mr. Lucas asked if Mr. Clini and the Petitioner had received the peer review comments. Mr. Clini said they did in fact receive the comments and were aware of them. He said the site layout information would be an easy change; however, the stormwater comments would be a bit more difficult but noted that the site is a redevelopment.

Mr. Lucas asked if the plan they were reviewing was the most recent, which is dated March 30, 2022. Mr. Clini confirmed this was the last revised plan.

The Board reviewed the lighting plan with the applicant.

Mr. Lucas asked if there is a snow storage area on site. Mr. Hayward stated that may be a tough to find a place on site.

Mr. Sullivan stated they talked about that earlier and was trying to figure out where they would have storage, and possibly use a snow blower on site.

Mr. Hayward stated he believed to be ADA compliant, the sidewalks need to be less than a 2% slope; and he believes they are designed to be in compliance.

Mr. Hayward asked if there were any other comments from the Board, hearing none; he then opened it up for Public Comment. There were no public comments.

Mr. Hayward suggested not closing the Public Hearing at this time and Mr. Clini agreed.

Mr. Clini asked how they would address the concerns in the peer review especially if he has to change the plans. Mr. Hayward said they can address the peer review points through the Planning Department, perhaps not on the plans. He said the issues/concerns the members had should be addressed. He said we'd like to finalize it by next meeting, so it could be all set to go to Conservation in early May. Mr. Hayward said if any issues with MA DOT they should narrow it down. He said they could always condition the permit to the MA Dot concerns as well.

Mr. Foley reviewed the list of the concerns of the board. He asked for the information to be to him by next Tuesday or Wednesday.

Mr. Clini stated they could get it back by Friday April 22, if not before.

Mr. Grant asked about the buffer in front and if the trees being planted are going in full grown or not. Mr. Clini stated it would be probably be between 6'-8' tall and showed the trees on the plans and what type of trees would be put on the site.

Ms. Melanson made a Motion to continue SP2022-01 Huttleston Car Wash to April 26, 2022 and was seconded by Mr. Lucas.

On the motion, Mr. Lucas asked if there was an order of conditions already prepared. Mr. Lucas stated he would like them submitted to the applicant prior to the meeting so they could review. Mr. Lucas asked if there were any waivers requested. Mr. Foley stated he thought there may be a parking waiver but noted that the use is not specifically called out in the parking regulations.

The Motion passed unanimously.

Mr. Hayward reminded Mr. Foley he had sent a communication regarding Marsh Island and noted it was approved over ten years ago and they are currently cleaning it out to bring it back to marsh. Mr. Foley said he would put in on their next agenda for discussion. His only question/concern ad to do with the access on Taber Street.

Mr. Hayward took the agenda out of order, to bring the Public Hearing for the 114 Sconticut Neck Road rezone. This is a citizens petition to change the zoning from Business to Mixed Use. He said the Board will be discussing a recommendation to bring to the Town Meeting in June.

Attorney Nicholas Gomes was present representing his client, Ron Oliveira, owner of the property. Mr. Gomes reviewed the project. He said they are looking to turn the zoning from Business to Mixed Use to turn the property into a two-family residential home.

He explained they received a variance from the ZBA on February 1, 2022 to add additional square feet to the second floor, increasing the height to 32'. He said they were before the Planning

Board tonight to ask for their support to go in front of Town Meeting and ask for a zoning change from Business to Mixed Use.

Mr. Foley gave a brief overview of the property noting it is currently zoned business at a very dangerous corner. This is area the Board has discussed in the past (as they did with North Fairhaven) to change the whole business zoned area to Mixed Use. He said it has a very wide corner and from one side to the other side of Scoticut Neck Road it's over 55 feet. He referred to the Use Schedule that a two-family has to be zoned Mixed Use and is non-conforming when in a residential area.

Mr. Foley stated he would like to work with SRPEDD in the future to correct the corner and narrowing the street at that location and both sides of SNR in that area where there are no sidewalks, wide curb cuts and a lot of pavement.

Mr. Hayward asked if it was proposed for a 3 family or 2 family. Mr. Gomes stated it was proposed for a 2 family.

Mr. Foley stated if it is going to 3-family, they would need to come back for a Special Permit.

Mr. Gomes said they would be expanding the height to a 3-family regardless of if it changes the zone as that is what was approved by the Zoning Board of Appeals in February.

Mr. Hayward stated if the Mixed Use zoning would be appropriate in this area.

Mr. Nadeau of 110 SNR was present in the banquet room and said that he didn't know why the Board would just revert back the zone from Business to Residential. He said he would like to see it labeled residential versus Mixed-Use.

Mr. Hayward referred to the Town's Zoning By-laws to state that a 2-family dwelling was not allowed in a straight residential zone, it has to be Mixed-Use for a 2-family dwelling.

Mr. Gomes stated they are moving forward with a request for a Mixed-Use zone. He said the intent is to have a 2-family residential. He said his client has already removed the rubble from a devastating fire to make it look like more like a home. He said it will be a positive in that area. He said the intent is for one of the apartments to be the home for a family member, who will take pride in the home and the area.

Mr. Foley said the Planning Board is only looking at the zoning not the plans for the building itself. He explained why they have to ask for a mixed use to get two families. He thought they may have to go back to zoning Board and wished they got the zoning change before going to the Zoning Board.

Mr. Braga gave a brief synopsis of the project as he understood it. He concluded with saying that nothing they would say this evening was going to change the structure from one to two-family this evening.

Mr. Mello, the resident in the rear on Manhattan Avenue was also present. He would like to see the bushes on the corner get cut back as it is a dangerous turn and they cannot see around the bush.

Ms. Melanson stated she is for the Mixed-Use district in this area.

Ms. Fidalgo asked if the mixed use is blending with the 40R bylaws or separate. Mr. Hayward stated that what they are viewing in red on the plans is currently zoned Business and they could be Mixed-Use. Mr. Foley added that the Mixed Use is a bit more flexible. He said you can do single families in a mixed use.

Mr. Hayward explained that this property was zoned business but there was an apartment upstairs being used, which is non-conforming. He said a Mixed-use zone in this area would be more ideal. He said there has been previous discussions for this area, and that they will move forward again to have discussions with the neighborhood and so on before they change it or suggest that change to Mixed-Use. He said the petitioner was just moving the case ahead of them to request the Mixed-Use District.

Cathy Melanson made a Motion to give a positive recommendation to Town Meeting for the rezone to Mixed Use for 114 Scoticut Neck Road and was seconded by David Braga. The motion passed unanimously.

Mr. Hayward closed the public hearing.

ii. Fairhaven Public Shade Tree Bylaw: Continued Public Hearing for a *General Bylaw Amendment* to create a Fairhaven Public Shade Tree Bylaw.

Mr. Foley said he and Mr. Hayward met with Attorney Crotty to review the language for the Bylaw. He explained that a lot of the wording came from the Massachusetts model bylaw with the exception that we added notifications and put public hearings in an existing board so that the tree hearings don't just happen in a vacuum. There are a lot of Boards and Committees and expecting people to attend another meeting was not likely to ensure wide knowledge of the hearing.

Mr. Foley reviewed 88-3, Protection of public Shade Trees and Town Trees regarding the tree warden's role. He said there was a section on permitting as well. He reviewed how the Tree Warden would post for a tree to be taken down. He said it has to be done in a better way because he has seen damage done to trees by the way they are posted.

Mr. Hayward stated that what they do for one tree should be standard across the board for all posting on trees by anyone.

Mr. Foley said there should be other eyes on a proposed cutting down of a tree. Mr. Foley suggested Select Board or the Park Commission for the location of the Tree Hearings. Attorney Crotty suggested the Planning Board for the location of the Tree Hearings.

Mr. Braga asked given the DPW that tree warden appointed position if they have commented on this by-law as well.

Mr. Foley stated he did send it to Mr. Furtado. He also forwarded it to the Tree Warden, who thought this bylaw would be too much for his budget for costs. Mr. Foley did not think it added costs. Mr. Hayward said the notification amounts to sending an email to the Boards and agents mentioned.

Mr. Hayward said they are setting up basic procedures on how this will work in the future and the procedure can be adjusted in the future if necessary. He said this was to give the public the right to speak on the trees that are proposed to be cut down.

In reference to 88-4: Planting (a), Mr. Lucas asked about the wording that says "Planning Board" has to approve every tree and asked if that's how it is meant to be read.

Mr. Hayward stated this is a continuation of subdivision regulations that the Planning Board approves as well as when CDBG grants come into the Town they come before the Planning Board. Mr. Foley said it appears something got lost in track changes and suggested it should read that the Planning Board approves the trees chosen to be planted during street improvements.

The Board discussed the wording and tweaking the by-law.

Mr. Foley stated the last part is maintenance. As for where the tree hearings would be held he said he would add "to be determined by the Town Administrator".

Mr. Hayward asked if anyone would like to comment on the Public Shade Tree By-law that will go to Town Meeting. There was no public comment. Mr. Foley reviewed the changes in the wording on the document and he would forward the changes to the members.

Cathy Melanson made a Motion to close the Public Hearing and was seconded by Mr. Hayward. The motion passed unanimously.

Cathy Melanson made a Motion to recommend the Shade Tree Bylaw to Town Meeting with the two amendments on the April 8, 2022 document and was seconded by Jeffrey Lucas. The motion passed unanimously.

3. **CURRENT PLANNING:**

- a) Town Planner Update: Site Readiness; Union Wharf; Rt. 6/240; Rogers; Bylaws to consider – light pollution, setbacks from public facilities, other.

Mr. Foley said they received a \$686,000 CDBG Grant for construction of Phase 3 on Hedge Street from Main Street to halfway to Adams Street. The Site Readiness Grant is moving forward. He said phase two testing is starting tomorrow, April 13, 2022 at 194 Bridge Street.

Mr. Foley said they have draft plans for Union Wharf and he needs to get in touch with FXM Associates. He gave an update on the 194 Bridge Street environmental testing that was funded through the Site Readiness Grant and some ARPA funds.

There were four responses received for the Rogers Reuse RFP, however one was incomplete. He said he briefly spoke to the Town Administrator last night and she wants to meet with the neighborhood. Mr. Hayward said there is a process to be followed. This would be a Special Permit that would have to be submitted to the Planning Board, whereas there are public meetings and etc. He stated he hopes it is followed. Mr. Foley assured it would be. Mr. Foley stated there may need to be negotiations for tax credits and/or CPC monies with the Select Board or CPC. Mr. Hayward said it is all up for negotiations. Mr. Foley reviewed the summary of the three applications received. He stated that the court case on the Rogers School has a trial date set for April 21, 2022.

Regarding Oxford School, he said that Keith MacDonald was hoping they would have people in by this summer.

4. **OTHER BUSINESS:** Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.
5. **Next Meeting:** Tuesday April 26, 2022.

Mr. Hayward reviewed the upcoming meeting on Tuesday, April 26, 2022 with two Public Hearings.

Cathy Melanson made a Motion to adjourn and was seconded by Ms. Fidalgo. The Motion passed unanimously via roll call vote.

Meeting adjourned at 9:19 p.m.

Respectively,

Patricia A. Pacella