



FAIRHAVEN PLANNING BOARD

Town Hall • 40 Center Street • Fairhaven, MA 02719
Telephone (508) 979-4023

Planning Board Minutes
Thursday, November 10, 2022

FAIRHAVEN TOWN CLERK
RCVD 2023 JAN 30 PM 1:04

1. **GENERAL BUSINESS:**

- a) Chair's Welcome and Media Notification: Mr. Hayward opened the meeting at 6:32 pm. He read Governor Baker's post-COVID information for Zoom Meetings until March 2023. He advised the meeting was being recorded by Fairhaven TV.
- b) Quorum/Attendance: Present: Chair Wayne Hayward, Jessica Fidalgo, Rene Fleurent, Kevin Grant, Jeff Lucas, Sharon Simmons, and David Braga.

Absent: Cathy Melanson

- c) Minutes: September 27, 2022, draft to be reviewed – Rene Fleurent made a Motion to approve the September 27, 2022, minutes and was seconded by Jeffrey Lucas. The Motion passed unanimously via roll call vote. (7-0-1)
- d) Planning Board Bills: FNN \$210 for Starboard Drive & Mirasol. Mr. Fleurent made a motion to approve the bill for FNN of \$210 and was seconded by Mr. Grant. The motion passed unanimously.

Staples \$24.98 – Mr. Braga made a motion to approve and was seconded by Mr. Grant. The motion passed unanimously.

Thomas Crotty, Attorney - \$35 related to Hiller & Timothy. Mr. Lucas made a motion to pay Attorney Crotty bill and Mr. Fleurent seconded the motion. The motion passed unanimously.

- e) Correspondence: None.

2. **PUBLIC HEARINGS:**

- a) **SP 2022-09 Mirasol Café' Special Permit:** Public Hearing on proposal to demolish the Fairhaven Car Wash and construct a new approximately 2,200 sf restaurant building with a drive-thru and site improvements.

Ms. Fidalgo read the advertisement in for the record.

Robert Kraus, Attorney for the applicant was in attendance via Zoom. Applicant, Dave Taglianetti of CGMA Fairhaven LLC was in attendance in the Banquet Room as was the architect, Oscar Ramirez and the engineer, Sam Hemingway.

Mr. Foley reviewed his staff report. The proposed 2,200 sf restaurant is on the current site of the defunct Fairhaven Car Wash on the eastern point of the former Benny's property on the corner of Spring Street and Huttleston Avenue. The car wash will be demolished and the new building will be further east on the site. The proposal would reduce the impervious surface of the overall site by 6.4% from 87.3% to 80.9%. The project will remove about 200' of open curb cut on Huttleston and Spring Street and improve the vegetative buffer along Huttleston Avenue and Spring Street. The perspective sketch shows a rectangular building with a flat roof sheathed in a combination of brick and clapboard.

The site plan shows room for eight vehicles in the drive-through lane from the pickup window to the beginning. There is room for one car behind a car at the menu board. A third car behind one at the menu board would block one of the handicapped spaces. Deliveries to the site will include box trucks, tractor trailers & mid-sized vans (Applicant has supplied turning movement diagrams for trucks and fire engines).

A landscape plan has been submitted showing three (3) existing trees will be relocated and salvaged for reuse. Nine (9) Trees on the edge of the work site will be protected in place. Three Red Maples, one Honey Locust and three Cherry Trees will be added to the site. Twelve (12) viburnums shrubs will screen the dumpster enclosure. Grass buffers will be added around the site and building.

Lighting Plans indicate 6 new exterior lampposts and 6 new exterior bollard lights. Heights of lampposts has been requested and applicant has been apprised of typical SP lighting conditions for dark sky compliant lights that do not extend beyond the property on timers. Applicant has responded that Lighting will be dark-sky compliant with a height of approximately 20 feet.

The proposal significantly decreases the amount of impervious surface on the site therefore not requiring a stormwater report and peer review. Site plans show new grates and pipes to collect parking and roof runoff to be connected underground to an existing catch basin.

Mr. Kraus stated that Mr. Foley reviewed the project wonderfully. He explained it was a Mirasol's café.

Mr. Hayward asked if the plan handed out tonight is different from the previous plan they received.

Mr. Hemingway, the engineer was present. He reviewed the proposed project. They will raze the existing building and build a new building; a restaurant building with a drive-thru. He said they will reduce the three entries into the area remove a significant amount of impervious area. He said there are new utilities proposed.

Oscar Ramirez, the architect was present to discuss the building. He said they are trying to create a more natural feel for the building, not like a Starbucks or Dunkin Donuts. They have a brick veneer with wood accents along the drive-thru and front of the building.

Mr. Lucas asked if there would be exterior sconces. Mr. Ramirez stated they were experimenting a bit and perhaps there might be with L.E.D.'s. He said they are still working on the lighting plan. He explained there is a back door for receiving.

Mr. Hayward asked for a business model for this location.

The reply was more sandwiches, quesadillas and cookies. He said that 60% of their business is beverage with their big item being the "Chippy".

Mr. Lucas asked about creating more space where a vehicle can safely get out of the queue because of a wrong order or delay.

Mr. Grant asked what the proposed hours would be.

The applicants responded that it would be 6 am to 7 pm, Monday through Saturday; and 7 am to 7 pm on Sunday. Mr. Grant also asked about the illumination plan when they are closed. Mr. Ramirez stated the lighting plan hasn't been completed one hundred percent as of yet, but the thought is LED's on the corners. Someone suggested they make the hours later so they do not have to come back to change the conditions.

A resident from Spring Street, Jeff Fontaine, asked about the different buildings in Fairhaven that aren't being used. He asked if they have considered utilizing other vacant buildings. He is concerned with the impact of the traffic, lights and noise. He is concerned about trash, as now there is a lot of trash that he picks up in that area.

Mr. Ramirez said they did review other locations in Fairhaven, and they weren't feasible. He said they looked at the other Dunkin Donuts, which didn't have enough space.

Mr. Hayward questioned whether planning could waive the right to grant the parking space within the 20' setback and believes it requires a variance. Mr. Kraus said it is a pre-existing non-conformity and the proposal is an improvement to the site that is making the site less non-conforming. He said he would like to avoid a variance and thinks it may be a condition on the special permit.

Discussion ensued on the three or four lots that configured the total space.

Mr. Lucas shared a few concerns regarding traffic behind the building, especially with the access from Spring Street at the southwest corner of the old Benny's building. Mr. Hayward noted there seems to be a bit of concern from members about the egress and ingress in that area, and perhaps they could look at that.

Mr. Fleurent made a motion to continue to December 13, 2022, per the applicant's request and was seconded by Mr. Grant. The motion passed unanimously.

A two-minute recess was requested.

b) **DS 2022-01 – Starboard Drive Definitive Subdivision:** Public Hearing on proposed 8-lot subdivision on Starboard Drive off Sconticut Neck Road on 9.5 acres with 5 existing cottages.

Ms. Fidalgo read the advertisement for the record.

Mr. Davignon, the engineer was present on behalf of the applicant.

Mr. Foley reviewed the project, which currently has 5 cottages on the property dated back to the 1950's and 1960s. He described where the eight-lot subdivision was being proposed. He said a new road would be built. They still need to go to Conservation for an NOI and confirm the wetland line.

The ANR plan reconfigured lots #98 and #9C. The three extra lots will be serviced by their onsite septic systems. The applicant will likely be requesting a few waivers. GCG reviewed stormwater.

Mr. Foley reviewed the waivers that the applicant will be requesting. He said GCG feels that the low elevation of the site in the Velocity Zone also means the water table is high making it difficult for the engineer to design the septic with the required buffer from the water table. GCG is recommending utilizing best management practices to provide treatment to deal with the issue with the water table. Mr. Foley also reviewed the comments from other Town Departments.

Mr. Davignon reviewed the project. He said they are not proposing to change out the four-home septic's. He said a fifth home will be connected to the septic of one of these lots and the three new lots will have their own new septic. He said the Title V and leaching field passed when his client bought the property, but they are going to put in a new leaching field. He said they will be putting in a full compliance Title V. He said he is aware that the water table is an issue in this area. He said they have a \$2500 peer review deposit. He said they went to Conservation, and it continued for a month. Mr. Davignon said he feels this is not a new development, but rather is a redevelopment.

Mr. Davignon stated he wants to make sure they communicate regarding stormwater versus go back and forth between Planning and Conservation and then getting nowhere. He would like permission to talk directly to the Peer Review engineer to clarify a few things. Mr. Foley said he would have to see how much money is still in the deposit account and make sure we have enough funds on hand to pay for any discussion between engineers.

Mr. Hayward asked about the road in this area. He said it didn't make a lot of sense to recharge near the ocean.

Discussion ensued the GCG peer review and all getting on the same page from the beginning.

Attorney John Mathieu was present via Zoom. He explained the road would be in a landowner trust and they would delineate easements. He said there would be eight owners of the trust. He said five would be subject to one septic system – 5 would maintain the system; 8 lots would be responsible for road and any other improvements collectively. The road will be private and may or may not be restricted. He said the owners would not be able to ask the Town to have it become a public road. He said that the road would have to be upgraded to meet the Town's standards and subdivision rules before they can ask the Town for it to become a public road. He said unless all the houses agree to ask for the road to become a public road it wouldn't happen.

He said it was being created to stay a private road. There is a responsibility of property owners to read the documents before they purchase, especially with a subdivision. He said they will have it in there that the road is private. Attorney Mathieu stated there would be easements for the Town if needed.

Mr. Fleurent asked if this was going to be built per our regulations in Town.

Attorney Mathieu stated there is a list and they are asking for a waiver to the cape cod berm and sidewalks and lighting. He said because its private they can ask for waivers to the road. He said they to put it in the Planning Board decision that it will not become a Town-owned road, as well as on the plans and all documents.

Mr. Hayward stated he would be open to giving out some waivers but not to water quality. He said their waivers need to be very clear.

Mr. Lucas asked about a landscaping plan and lighting. Mr. Hayward said that they wouldn't have to build to Town standards if they are calling it 'private'.

Mr. Hayward asked board members how they felt about narrowing the road to 18'.

Mr. Davignon stated he wanted Mr. Foley to discuss with GCG that the focus here is the water quality.

Mr. Lucas made a motion to continue DS 2022-01 Starboard Drive to December 13, 2022 and was seconded by Mr. Fleurent. The motion passed unanimously.

3. LONG-RANGE PLANNING:

a) Ad-Hoc Tree Panel Bylaw revisions review

Mr. Foley stated he met with Town Moderator and department heads about the Planning Board's article. Mr. Hayward said it shouldn't say Planning Board. He said there is a lot of legal issues now with the bylaw that was done with Town Counsel.

Mr. Foley said the Select board and Town Administrator advised they wouldn't be supporting the bylaw.

Mr. Hayward said these people have completely misunderstood why a tree bylaw is being presented. It has nothing to do with the tree warden. It has to do with ensuring the protection of the trees.

Mr. Hayward said he never received correspondence to attend a Finance Committee meeting to discuss the bylaw. He said that no one asks the Planning Board any questions as elected officials they are not considered in anything. He said he would be presenting the bylaw article and this meeting is his last as Chairperson.

b) Town Planner Update: Bridge Street, MVP; HMP; MHP

Mr. Foley reviewed the different phases of the working group meetings that he has had. He said it's been a good turnout of residents so far.

The Town of Fairhaven is looking at creating a 40R Overlay Bylaw to allow higher density mixed-use development in targeted areas of Town. As part of this effort to create a bylaw and design standards our consultants held visioning workshops this past Friday evening and Saturday morning. This will included a driving tour on Friday (11/4)

The Purpose of the potential 40R Overlay Zoning District is to facilitate new commercial and residential development in previously developed areas while preserving the historic and rural character of the rest of the Town and guide sustainable economic development and build new capacity for growth in appropriate areas near transit and services. A 40R Overlay Bylaw that fits Fairhaven would be a great tool for the Town to achieve many of the objectives and goals in the Master Plan.

He noted he has applied to the Seaport Economic Counsel (SEC) for a grant with New Bedford to update the Municipal Harbor Plan that has not been updated since 2010. He also applied for another \$1,000,000 to finish the re-sheeting of the north wall of Union Wharf.

Mr. Foley sent a letter to A&A Auto sales before his vacation regarding the fence in the back and planters. He said he needs to visit them. Mr. Foley said the short-term rentals have been put on the back burner again since we do not have a full-time Building Commissioner. He said that the Town has hired an interim Building Inspector that will be in on Tuesdays and Wednesdays and every other Friday.

Mr. Foley stated their next meeting is November 22, 2022, and the Hiller Subdivision will be on the agenda for review. He said they submitted a slightly revised plan, and he will get a staff report to all within a week.

4. **OTHER BUSINESS:** None.

5. **Next Meeting:** Tuesday, November 22, 2022.

Mr. Braga made a motion to adjourn and was seconded by Mr. Fleurent. The motion passed unanimously.

Respectfully,

Patricia A. Pacella
Recording Secretary