



FAIRHAVEN TOWN CLERK
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TOWN OF FAIRHAVEN, MASSACHUSETTS

PLANNING BOARD

Town Hall · 40 Center Street · Fairhaven, MA 02719

MEETING MINUTES—~~DRAFT~~

Tuesday, August 22, 2023, at 6:30 pm

Held both at Town Hall & Remotely via Zoom

1. GENERAL BUSINESS:

a) **Chair's Welcome and Media Notification:** Madame Chair, Ms. Cathy Melanson, opened the meeting at 6:34 PM and advised who was present. She also read the revised Open Meeting Law Statement, covering the extension of remote meetings and public access by Governor Healy until March 31, 2025. Additionally, she covered the Zoom accessibility options to provide automatically generated captions for this meeting.

b) **Quorum/Attendance: Present:** Cathy Melanson, Jessica Fidalgo, Sharon Simmons, David Braga, Jeff Lucas, Patrick Carr, and Ruy daSilva in the Town Hall Banquet Room, and Kevin Grant via Zoom.

Paul DiGiuseppe, Director of Planning & Economic Development, and Recording Secretary Stephanie Fidalgo were also present.

Absent: None.

As noted in other minutes, both Vice Chair Jessica Fidalgo and Recording Secretary Stephanie Fidalgo will each be referred to by their full names for clarity as both were active participants during this meeting.

c) **Welcome New Planner, Paul DiGiuseppe:** The board introduced themselves to the Planner, with Mr. DiGiuseppe noting that he already had the pleasure of meeting most members of the board prior to this meeting. He praised the welcoming atmosphere around Town Hall as well as Fairhaven's beauty as a whole. He was looking forward to working with both the Planning Board and the Economic Development Committee. Ms. Melanson extended a welcome to him on behalf of the board.

d) **Minutes: July 18, 2023, drafts to be reviewed:** Jessica Fidalgo made a motion to approve the minutes of July 18, 2023, and was seconded by Mr. Braga. Before the vote for approval, Mr. Lucas pointed out two typos on page 2, Line 76, and page 3, Line 81. Stephanie Fidalgo promised to correct the typos before submitting the minutes to the Town Clerk.

Jessica Fidalgo amended her motion to approve the minutes of July 18, 2023, with the

amendments to line 81 and line 76, and was seconded by Mr. Lucas. The motion passed unanimously via roll call vote (8-0).

e) Board Elections

1. **EDC:** As no one else on the Planning Board had been nominated to be appointed to the EDC, Ms. Melanson brought back the suggestion from the last meeting for Mr. Carr – who was already serving on the EDC – to be named the Planning Board representative. Afterward, the Select Board could then appoint a new member to fill the empty seat.

Mr. Lucas inquired as to how many members were shared between the Planning Board and EDC, with Jessica Fidalgo noting that it was changing from three members to two. Mr. Braga elaborated that only one Planning Board member would be considered the EDC representative, with the others having been appointed as citizens.

Before a motion could be made, Ms. Melanson checked that Mr. Carr would be comfortable with being appointed as the representative, which he agreed to.

Jessica Fidalgo made a motion to have Patrick Carr act as the Planning Board Representative on the EDC and was seconded by Ms. Simmons. The motion passed unanimously via roll call vote (8-0).

- f) **Planning Board Bills:** Ms. Melanson informed the board that the Town Administrator, Ms. Angie Lopes Ellison, had directed that going forward, all Planning Board Bills would be handled and signed by Mr. DiGiuseppe on their behalf.

- g) **Correspondence:** No correspondence for this meeting.

Before moving on in the meeting, Ms. Melanson noted that the regular Planning Board Administrative Assistant, Marie Ripley, was currently on medical leave. For the time being, Recording Secretary Stephanie Fidalgo will fill in for her at the Planning Office.

2. RECEIPT OF PLANS:

- a) **FA 23-05 481 Sconticut Neck Road: Form A proposal to divide Assessor's Map 29, Lot 27 into two lots, submitted by Antone Arruda.**

Ms. Melanson noted that board members could sign the finalized plans for both this Form A and the previously approved DS 2023 - 01 – Lincoln and Jason Subdivision at the end of the meeting.

When Ms. Melanson moved on with the meeting past this agenda item, both Stephanie Fidalgo and Mr. Lucas raised concerns over the lack of discussion on FA 23-05 481 Sconticut Neck Road. Ms. Melanson insisted that the plans for this Form A application simply needed to be signed and did not require additional discussion.

There was no further discussion on the matter.

3. PUBLIC HEARINGS:

- a) **SP 23-03 23 Summer Street Special Permit: Convert the existing rear building at 23 Summer Street (Map 10, Lot 166) into an accessory dwelling unit, submitted by Robert Leidhold.**

As requested at the prior meeting, Town Counsel evaluated this application and determined that a Variance would be required before any Special Permit could be granted as 23 Summer Street did not meet the lot size requirements for a lot that included an accessory dwelling unit. As such, the application was being transferred to the Zoning Board of Appeals to be heard at the October 3, 2023, meeting. The timeline for when it may return to the Planning Board would depend on the Zoning Board of Appeal's determination on the Variance. Thus, the board would need to wait before assigning a continuation date to this public hearing.

- b) **SP 23-05 Starbucks 27-29 Alden Road Special Permit: Create a new 2,458 sq. ft. restaurant building with a drive-through on the site of the former Dunkin' Donuts at 27 Alden Road (Map 26, Lot 13G) and the current Tropical Smoothie Café at 29 Alden Road (Map 26, Lot 13H), submitted by Michael W. Panagakos.**

Engineer for the project, Christian Farland, President of Farland Corp introduced to the board the owner of the property, Michael W. Panagakos, attorney Chris Saunders, and senior project manager, Scott Daggett. He outlined that the project would be located at the intersection of Alden Road and Route 6 at 27 Alden Road (Map 26, Lot 13G) and 29 Alden Road (Map 26, Lot 13H), at a combined 35,000 sq. ft. Presently, there is a former Dunkin' Donuts at 27 Alden Road and a current Tropical Smoothie Café at 29 Alden Road, but Starbucks would replace both businesses. He covered the current issues with congestion, given that each existing business had two entrances that lead out into a busy intersection, as well as the small amount of green space and the lack of a stormwater recharge system. Overall, he considered the new project to be a significant improvement over the existing conditions.

Going into the plan itself, he noted that the traffic memo by McMahon Associates predicted a reduction in overall traffic. The new condensed entrance and exit further north at Alden Road should also be safer. As far as parking goes, there were 23 spaces planned with the two ADA-compliant spaces placed in front of the main entrance. The drive-thru would have space for a 16-car stacking queue that wrapped around the lot, designed so that way cars coming in from the Route 6 entrance could not cut into the queue.

Mr. Farland next outlined the stormwater improvements made to the lots, which planned to reduce the overall run-off by use of a new recharge system and new trench drains to stop water from sheet flowing off-site. He also noted the Sewer Superintendent's concerns regarding using the sewer line at 27 Alden Road and outlined plans to have the line inspected

via camera to identify any issues that could be causing back-ups. The fallback plan would be to tie into the force main at 29 Alden Road instead.

Going over the landscaping plans, they planned to keep four of the mature street trees that lined the perimeter of the lot, along with adding 40 additional plantings. The new layout would also double the amount of green space, going from 13.7% to 28%. In response to suggestions to add additional sidewalk along Alden Road, Mr. Farland countered that there wasn't enough room to include both the trees and the sidewalk, and that Alden Road lacked sidewalks along the eastern side of the road. He also covered the new LED lights and dumpster container.

Mr. Farland noted that his engineers had already addressed several technical comments and requests made by the Town and was fine to discuss them further. At that point, Ms. Melanson welcomed Stephanie Fidalgo to read the Planning Department's staff report to the board.

Before the staff report could be presented, Mr. Carr asked about the technical comments Mr. Farland mentioned. Ms. Melanson explained that there had been a department head meeting on August 3, 2023, where the initial plans were presented and commented upon in order to give the applicants time to make adjustments before presenting them to the board.

Stephanie Fidalgo covered the information in the staff report. It included several of the same points as Mr. Farland's introduction to the plans. Additional points covered included the history of the properties with the Dunkin' Donuts operating from 1981 until 2019 and the Tropical Smoothie Café operating since 2013 and the surrounding uses being business and residential. Also noted were the locations of the next closest Starbucks locations in New Bedford, North Dartmouth, and Wareham and the use of "Starbucks Prototype_STB-A" for design standards including a variety of signs and letters attached to the building along with a menu board and digital order screen. Located on the other side of the street from the site was a detention basin just north to the 7-Eleven at 188 Huttleston Ave with a 100-foot buffer zone, so the Conservation Agent suggested filling out a Request to Determine Applicability with the Conservation Commission.

When bringing up how well the project fit with the Special Permit Criteria, Stephanie Fidalgo pointed out the concerns of the Fire, Police, and Highway Departments with the narrow width and turn radius of the lanes in and out of the site that may hinder emergency vehicles from accessing the restaurant. While there was an overall increase in green space, the buffers would still be rather narrow along the perimeters, though the east lawn did mainly meet the 10 ft. setback requirement. She also used a photo of the New Bedford Starbucks location as an example of the general exterior aesthetics to expect for the proposed Fairhaven location.

Comments from the different department heads were presented to the board, along with the responses made by Farland Corp. Beyond the previously noted issues, these were mainly technical details requested by the BPW for further information on points such as backfill, curb

cut details, pavement details, erosion control, and MassDOT access permits. The sewer department took issue with using the 27 Alden Road sewer line and strongly recommended instead utilizing the 29 Alden Road line along with moving the water service line as it crossed over the sewer line. The response noted that the water service line would be sleeved where the two lines crossed over. Health Agent Dave Flaherty also brought up possible issues with rodents at the former Dunkin' Donuts and requested further information on the restaurant equipment and snow removal.

Mr. Farland addressed the comments from public safety, explaining that given the size of the location and the lanes, a fire truck would instead park on Alden Road to fight any fires rather than attempt to go into the parking lot. He also pointed out that the Starbucks would not utilize open flames in their restaurants, so any fires would be electrical, which was a rarer occurrence. Smaller emergency vehicles such as police cars and ambulances should be able to enter and exit through the planned lanes, with Mr. Farland pointing out that the Route 6 entrance did not have a curb that locked cars into the line.

Ms. Melanson noted that she recalled the Fire Chief noting that it would be possible to fight a fire from Alden Road, but she would request confirmation from him on this point. She then opened the floor to questions from the board.

Mr. daSilva inquired about the Route 6 entrance, noting his concerns with a white wheelchair-accessible van that was frequently parked nearby as well as what could be done to dissuade customers from jumping directly into the ordering queue if there was no curb cut to stop them. Mr. Farland promised that they would speak with the van's owner to make sure that the driveway was clear. For the drive-through, directional arrows could be added on the pavement to help guide traffic to the queue entrance. In talking out the point, Mr. Farland also agreed with Mr. daSilva's suggestion to add a sign to that entrance to help with traffic flow direction.

Following up, Mr. Lucas asked if the driveway on the west side of 194 Huttleston Ave at the Help U Sell insurance company was being actively used. Ms. Melanson answered that while it was in use, there was another means of access on the east side of the building and Mr. Farland noted that the easement on Alden Road was shared between both 27 Alden Road and 194 Huttleston Ave.

Building off the prior discussion, Mr. Braga asked whether the curb cut was large enough to accommodate two vehicles at the same time. Looking at both the site plans and maps, the board was uncertain as to if two vehicles could fit through at the same time, and Mr. Braga would prefer that measures were taken to reduce the possibility of a crash. Mr. Farland noted that according to the traffic report there had only been two accidents in ten years at the sites. Coming back to the line jumping issue, Mr. Farland did offer the idea of extending down a dividing curb to lock cars into the queue. Mr. Carr asked for comments from Mr. Panagakos on

the traffic concerns brought up thus far and if arrangements could be made with Help-U-Sell to make their eastern driveway a one-way to eliminate the chance of two cars meeting head-on. Mr. Panagakos noted that he didn't own that property and thus had no purview to make it a one-way driveway, but he did point out the other two means of access to 194 Huttleston Ave along Route 6 and Shirley Street. He then covered the history of the building, noting that the Dunkin' Donuts at Alden Road was one of the first to include a drive-thru and how the market had changed in the last 40 years to embrace the drive-thru concept. He also covered the reasoning behind the lack of bollards or a curb to stop line cutting in the current plan – he wanted to allow cars to leave the queue if needed, given how it could be up to 16 cars deep. He suggested adding a rumble strip to discourage line-cutting.

He also noted that there had never been an accident at the Route 6 entrance between cars entering and exiting at the same time in the time that he owned the property. He considered the Alden Road access points to be more problematic but condensing them to one and placing it as far back from the intersection as possible should alleviate the issues. Mr. Panagakos also brought up the previously mentioned New Bedford Starbucks location, which he also owns, and stated that the drive-thru plan for the Fairhaven property would be a vast improvement over that location. He also promised that if the Route 6 driveway proved to be a problem, he would close it off if necessary.

Mr. Grant stated that he would like to see any reassessments or reassurances that the Fire Department could deal with a fire from the street put in writing to have for the record. He continued to say that the main issue was trying to bring 40-year-old lots into compliance with 2023 bylaw standards. He wanted to know that if compromises needed to be made to address the public safety issues, could the building's size be reduced to widen the lanes around it, as this plan was oversized compared to the average Starbucks (approximately 2,500 sq. ft. as compared to the average 1,500 to 2,000 sq. ft.) Mr. Farland promised that he would meet with the police and fire chiefs to discuss the plans and if they could submit new letters after a reevaluation.

Building on those points, Jessica Fidalgo asked if the Alden Road access point (24 feet wide), the east entrance lane (10 feet wide), and the north lane (12 feet wide) could be widened for better emergency vehicle access. Mr. Farland said that it was possible to widen any of those areas slightly if it would help address the concerns of the emergency services departments, but it would lead to less overall green space. Before moving on, she commented that in her view the plan was an overall improvement over the current arrangement.

Ms. Simmons suggested adding additional signs to direct drivers along the drive-thru path, which Mr. Farland promised could be added to the next revision. Ms. Melanson also noted the mark on the plans along the division of the entrance and drive-thru lanes, which is where the plans for either a line or rumble strip would go from the end of the main curb until just past the menu board.

When Jessica Fidalgo asked about the possibility of a double drive-thru lane, Mr. Farland assured her that was not in consideration for this project given the length of the queue. They would also be supporting online ordering where customers could pick up their orders inside the store, with Mr. Panagakos noting that certain spaces would be reserved for online pick-up customers.

Mr. Lucas had several questions, starting with the number of employees per shift and operating hours, which Mr. Panagakos answered were planned to be 5 per shift, with the store to open around 5 AM and close at either 9 PM or 10 PM. Given the closing time, he did have concerns about noise affecting the residents behind the building. He also had concerns with the amount of lawn setbacks along the northeast corner. Mr. Farland pointed out the fence and bushes currently running along the property line that would remain and having only one site would reduce the noise overall. Mr. Panagakos promised to make necessary repairs and extensions to the fence and work with the abutters if issues arose. Regarding trash pick-up, Mr. Panagakos would arrange for after-hours pick-up, similar to the New Bedford location. Mr. Lucas also requested details on the pylon sign marked on the northwest corner of the plans.

Returning to questions about traffic circulation, Mr. Lucas voiced concerns as to whether 16 cars could indeed be in the queue at once, noting the size of trucks and SUVs. He also had issues with accommodating larger vehicles backing out of spaces while other cars were entering the queue. When discussion turned to the amount of space available between the bottom of the parking spaces and the buffer along Alden Road, Stephanie Fidalgo pointed out that the plans noted a distance of 24 feet which helped to allay some of Mr. Lucas' concerns.

Going back to the green space, Mr. Lucas asked if any trees could be added to Alden Road, but Mr. Farland pointed out that they would have to be planted on Town property in that case. While it would be difficult to add an extra green space along Alden Road, Mr. Farland said that he would investigate it at Mr. Lucas' request.

Mr. Carr requested information regarding any changes to the fire code since the establishment of the Dunkin' Donuts in 1981 and the previous plans for putting out any possible fires at that location. Mr. Panagakos explained that while the code had not significantly changed, the appraisal of the situation made by the current Fire Chief was different than his predecessors. But overall, the amount of access to the property would be an improvement over either of the two existing lots. Mr. Farland followed up, stating that Alden Road would count as adequate access to the building as there would only be 50 feet between the structure and the roadway.

Mr. Carr pointed out the many positive aspects of the project regarding rearranging the lots around a single building and creating better traffic flow. He did agree with Mr. Lucas' point that as this is a fresh renovation of the area and as such, it might be beneficial to replace the existing sewer pipes if the BPW had noted issues with them. Mr. Farland reiterated the plans to

run a camera through the lines to find any issues, but they would likely replace the pipes on the property with new, more efficient pipes. Beyond those concerns, he felt that the project would be a great addition to the Town.

Ms. Melanson requested comments from the public. Stephanie Fidalgo read a comment from the Zoom chat pointing out the lack of wheelchair access from the sidewalk, with the Board and Mr. Farland also realizing the lack of access given the location of the sidewalk and the arrangement of the drive-thru.

Ms. Melanson called on Eleanor Chew of 180 Main Street after Jessica Fidalgo noted that her hand was up on Zoom. While Ms. Chew is a member of the Commission on Disability, she noted for the record that she was speaking as an individual and could not speak on the Commission's behalf as to the prior issue raised. She wished to know the location of the main entrance, with Mr. Farland explaining that it was directly in front of the two accessible spaces, facing out towards Alden Road.

Ms. Melanson then noted that the hearing would need to be continued to give the applicant time to address the issues brought forth by the board and offered the two meeting dates in September. Mr. Farland requested to be continued to the next meeting, September 12, 2023.

Mr. daSilva made a motion to approve continuing the public hearing for SP 23-05 to the September 12, 2023, meeting and was seconded by Mr. Carr.

Before the vote could be taken, Jessica Fidalgo asked what updates the board could expect for the next meeting. Mr. Farland promised to get any updated plans to the board by the revision deadline and Ms. Melanson and Mr. Paul DiGiuseppe would seek further comment from public safety.

The motion passed unanimously via roll call vote (8-0).

- 4. OTHER BUSINESS: Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.**

There was no other business for this meeting.

- 5. NEXT MEETING: Tuesday, September 12, 2023.**

Mr. Braga made a motion to adjourn and was seconded by Ms. Simmons. The motion passed unanimously via roll call vote at 8:25 PM.

Respectfully submitted,
Stephanie A. Fidalgo

Recording Secretary,
Planning Board

