



TOWN OF FAIRHAVEN, MASSACHUSETTS

PLANNING BOARD

Town Hall - 40 Center Street - Fairhaven, MA 02719

**Meeting Minutes**

**Tuesday, November 18, 2025**

**at 6:30PM Held both at Town Hall**

**& Remotely via Zoom**

**1. GENERAL BUSINESS:**

a. Welcome and Media Notification:

Interim Chair, Ms. Sharon Simmons, opened the meeting at 6:32pm and welcomed all. Ms. Simmons read the open meeting law protocols and procedures.

b. Pledge of Allegiance:

The Board stood for the Pledge of Allegiance.

c. Quorum/Attendance:

Present: Sharon Simmons, Jeffrey Lucas, Sean Powers, Ruy DaSilva, Miles Grant, Kevin Grant, & Patrick Carr.

Absent: Jessica Fidalgo.

Ms. Hailey Hemingway, the Recording Secretary, was present at the Town Hall.

d. Vote on Board Position Opening:

Motion to pass over this agenda item made by Mr. Carr, seconded by Mr. Lucas. Motion passed (6-1).

- e. Correspondence- Notifications from City of New Bedford Planning Board and New Bedford City Council:

Ms. Simmons noted this correspondence received.

- f. Meeting Minutes drafts to be reviewed:

Motion to approve minutes made by Mr. Carr, seconded by Mr. Kevin Grant. Motion passed (6-0). Mr. Lucas abstaining.

Motion to enter Executive Session made by Mr. Carr, seconded by Mr. Kevin Grant. Motion passed unanimously (7-0).

## **2. EXECUTIVE SESSION:**

- a. Executive Session pursuant to G.L. c. 30A, S. 21(a)(7) to comply with, or act under the authority of, G.L. c. 30A, s. 22, to review the minutes of Executive Sessions held on 6/14/2022, 12/13/2022, 9/9/2025, 9/23/2025, 10/14/2025, & 10/28/2025):
- b. Meeting with Town Counsel pursuant to G.L. c. 30A, s. 21(a)(7) to comply with or act under the authority of the Public Records Law, G.L. c. 4, s. 7(26)(discuss privileged written legal opinion regarding Hiller Timothy Subdivision):

## **3. PUBLIC HEARING:**

Ms. Simmons opened the public hearing at 7:50pm.

- a. SD25-02 at 0 Duchaine Street- Potential Properties, LLC. Proposes to subdivide the property to create 2 building lots by creating the legal frontage along the street with a construction of a 20-foot-wide gravel roadway and hammerhead turn around. The property is located 0 Duchaine Street Map 34A Lot #38. – Applicant is requesting to continue to December 16, 2025:

Motion to continue SD25-02 at 0 Duchaine Street to December 16, 2025 made by Mr. Carr, seconded by Mr. Kevin Grant. Motion passed unanimously (7-0).

- b. DS25-03 0 Hiller Timothy- For the Planning Board to receive information, hear public comment, and consider whether to modify, rescind, or take over action with respect to the constructive approval on an application for approval of a definitive subdivision plan dated March 24, 2025 submitted by Robert Roderiques d/b/a Windmill Acres LLC for the Hiller Avenue and Timothy Street Subdivision proposed for Map 28C / Parcel 071 and 71A:

Ms. Simmons read a statement made by the Planning Department. (See Attachment A).

Ms. Simmons noted there was a mortgage recorded at the property. Ms. Simmons noted due to the mortgage, the Planning Board can only modify plans with consent of the Developer and the Mortgage Holder.

Mr. Jonathan Silverstein, attorney for the developer, was present to speak to the Board.

Condition 1 Proposal: Remove the 10 foot pipe along Hiller Avenue, and either install a larger diameter pipe as agreed to by the Board of Public Works Highway Superintendent or create a 50 foot long drainage ditch in its place to eliminate flooding potential relative to Assessor's map 28C, Lot 78 & 79 and accommodate the 100 year per stormwater modeling, with the final implementation be reviewed and revised as necessary by the Town.

Condition 2 Proposal: To incorporate the conditions set forth in the DEP superseding order of conditions dated July 26, 2021, to address the potential ponding issue relative to the solid concrete sump proposed at the 4 Bay bottom with the final implementation to be reviewed and revised as necessary by the Town.

Mr. Silverstein noted the plans show the removal of the 10 foot pipe and the installation of the trench.

Mr. Silverstein confirmed that if the Stormwater Authority requests a modification with the sump, the applicant will agree to the modification.

Condition 3 Proposal: The developer will meet with the Board of Public Works to discuss plantings, species and alike in the public way.

Ms. White noted this item addresses the plantings in the cul-de-sac islands.

Mr. Silverstein confirmed he will discuss this with his client, but he doesn't anticipate an issue meeting with the BPW to discuss the plantings.

Condition 4 Proposal: Performance guarantee shall be provided in accordance with section 322-14.I of the subdivision regulations.

Mr. Silverstein noted there was a Form F Covenant signed and notarized that the applicant left with the Town Administrator. Mr. Silverstein noted the covenant will be brought to the Registry of Deeds Wednesday, November 19, 2025.

Condition 5 Proposal: Street names will be updated to be consistent with Assessor's records.

Mr. Silverstein requested that the modification be to acknowledge that the names of the two subdivision roads have been reversed from what is shown on recorded plans and that the modification will be on record.

Condition 6 Proposal: Owner identification for the vacant parcel at the end of Paul Street will be updated.

Mr. Silverstein noted the owner is unknown and it's unclear who has the record title to that parcel.

Mr. Carr questioned if the parcel is part of the subdivision. Mr. Silverstein confirmed the parcel is not part of the subdivision.

Condition 7 Proposal: Within 30 days, the developer will provide proof of consent of any mortgage holders to these conditions.

Mr. Silverstein noted he will seek consent.

Condition 8 Proposal: Developer shall submit revised plans to the Planning Board reflecting such changes. Once endorsed by the Planning Board, this decision and the approved plans shall be recorded in the Registry of Deeds with reference to the previously recorded constructive approval and the book and page number shall be provided for this.

Mr. Silverstein was in favor of recording the modifications but not the revised plans.

Abutters raised concerns with the amount of lots on the parcel, flooding, replanting of trees, and sinkholes forming on properties.

Motion to allow public comment under new and other business made by Mr. Kevin Grant, seconded by Mr. Powers. Motion passed (7-0).

Mr. Kevin Grant per an earlier request from an abutter, asked the applicant if they would agree to a rescind of the applications constructive approval by the Planning Board. The applicant was not in favor.

Mr. Lucas questioned if a berm is on the plan. Mr. David Davignon, engineer for Schneider, Davignon, and Leone, confirmed there is a berm that will go along the property line and there will be trees planted on the berm.

The Board and Mr. Silverstein discussed doing a site visit.

Mr. Silverstein noted GCG Associates has been overseeing the construction.

Motion to hold three separate votes, one on whether or not to rescind constructive approval, one on whether or not to take no action against constructive approval, and one on whether or not to approve the constructive approval with a request for modifications made by Mr. Kevin Grant, seconded by Mr. Carr. Motion passed unanimously (7-0).

Motion to rescind the construction approval made by Mr. Kevin Grant, seconded by Mr. Carr. Motion did not pass (1-6).

Motion to vote as to whether to take no action against constructive approval and let it stand without modification made by Mr. Kevin Grant, seconded by Mr. Carr. Motion did not pass (0-7).

Motion to vote to add modifications to the constructive approval made by Mr. Kevin Grant, seconded by Mr. Carr. Mr. Kevin Grant rescinded his motion.

Motion to recess briefly in order to figure out what these modifications may or may not be so that we can then therefore vote yes or no as to whether or not we will modify applications made by Mr. Kevin Grant, seconded by Mr. Carr. Motion passed (7-0).

Meeting reopened at 10:58pm.

Ms. Simmons entertained a Motion to modify the constructive approval of the Windmill Acres Subdivision as follows:

A. To add the following findings:

1. Since no stormwater review was conducted in connection with the application for definitive subdivision approval, the Towns Stormwater Authority met on November 10 to review the projects stormwater management system and its review is summarized in an updated letter. Entered into the record on the boards November 18, 2025 public hearing the subdivision now shown on the constructive approved plans as Nolan's Way is now to be called Collins Drive. And the subdivision now shown on the constructive approved plans as Collins Drive is now to be called Nolans Way.

B. to add the following conditions:

1. As requested by the stormwater authority, the operations and management plan manual will be updated to reflect final site conditions after completion of construction.
2. The applicant will meet with the DPW to discuss plantings in the public way.
3. A Form A covenant performance guarantee has been signed by the applicant and shall be recorded.
4. within 14 days after filing this modification decision with the Town Clerk, the applicant shall request that the mortgage holder consent to the modification. Upon receipt of the mortgage holders' consent, this modification shall be recorded in the Bristol County Registry of Deeds with reference to the previously recorded constructively approved plans and the recording information shall be provided to the Planning Board.
5. The project shall be constructed with substantial conformance with the

constructively approved plans and this modification.  
Motion made by Mr. Carr, seconded by Mr. Kevin Grant. Motion passed unanimously (7-0).

#### **4. NEW/ OTHER BUSINESS:**

a. Planning Board to discuss and vote on investigation of Hiller Timothy constructive approval:

Ms. Heather White, Town Counsel, suggested the Planning Board has a discussion about requesting that the Town Administrator initiate an investigation. Ms. White later noted the request would be to the Town Administrator and the Select Board.

Mr. Silverstein noted in the motion to modify there was a reference to a Form A Covenant and the motion as written was a Form F Covenant. Mr. Silverstein confirmed it is a Form F Surety Covenant.

Ms. White suggested the record reflect the motion as written.

Motion to correct the language of the modification, which read Form A to Form F and acknowledge that correction as a board made by Mr. Kevin Grant, seconded by Mr. Carr. Mr. Kevin Grant rescinded his motion.

Mr. Lucas confirmed Form F is an inspection form and Form D is a Covenant.

Motion to amend the language of the modification from a Form A to Form D made by Mr. Kevin Grant, seconded by Mr. Lucas. Motion passed unanimously (7-0).

Motion to formally request a third-party investigation be initiated by the Town Administrator and the Select Board regarding the process of constructive approval which occurred regarding the Timothy Hiller Subdivision, including but not limited to the questions of the abutters with a goal of fact finding, full accountability, and improved policy procedure and training requirements in Town Hall made by Mr. Kevin Grant, seconded by Mr. Carr. Motion passed unanimously (7-0).

b. Updates from Committee Liaisons:

Motion to continue all other discussion items to the next meeting made by Mr. Kevin Grant, seconded by Mr. Carr. Motion passed unanimously (7-0).

#### **5. LONG RANGE PLANNING:**

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

6. **NEXT MEETING:**

The next regular Board Meeting is scheduled for Tuesday, December 16, 2025 at 6:30pm.

7. **ADJOURN:** There being no further business before the Board, this meeting is adjourned.

The Meeting closed at 11:40pm.

Respectfully submitted,

*Hailey Anne Hemingway*

Minutes approved at Planning Board Meeting on January 13, 2026