

PLANNING BOARD MEETING OF January 26, 2010

Place: Town Hall Banquet Room

**I. ADMINISTRATIVE BUSINESS**

A. Quorum/Attendance

Members Not Present – None

Planning Director William Roth was also in attendance.

B. Acceptance of Minutes –

Albert Silva motioned to accept the minutes for the December 15, 2009 meeting. Gary Staffon seconded. The vote was unanimous. The motion passed.

C. Planning Board Bills

1. Office Supplies – Staples - \$75.13

Gary Staffon motioned to pay this bill. Albert Silva seconded. The vote was unanimous in favor. The motion passed.

2. Fairhaven Neighborhood News – 105 Scoticut Neck Special Permit AD - \$54.00

Timothy Cox motioned to pay this bill. Albert Borges seconded. The vote was unanimous in favor. The motion passed.

**II. CURRENT PLANNING**

A.. Receipt of Plans – None

B. Approval of Plans -

- 1.) Form A – Frank & Stephen Bosworth – 17 Egypt Lane

Timothy Cox motioned to approve the Form A. Raymond Fleurent seconded. The vote was unanimous in favor. The motion passed.

**III. LONG RANGE PLANNING –**

Chairman Hayward – Due to the public hearing we will place the Long Range Planning discussing at the end of the meeting.

1. Rezone Map 34A, Lots 21 - 24

**IV. PUBLIC HEARING – None.**

- 1) Special Permit – Robert Sylvia – 105 Scoticut Neck Road

Chairman Hayward - This is for a trucking terminal at 105 Scoticut Neck Road.

William Roth- We've received comments from a number of town departments. I need to make the Board aware that I have filed a notice with the Town Clerk and the Board of Selectmen that I have a potential conflict of interest. The contractor that built my addition a few years ago and is currently renovating a bathroom at my house is a direct abutter to this. So, I have excused myself from giving the typical staff report. I did provide a memo with all of the comments that were received and I am here to answer any questions as they relate to the zoning bylaw.

Chairman Hayward - This is the old Executive Coffee building, which has been there a long time along with some adjoining buildings. There have been all types of operations going on over the years. The same is true in recent years. What he wants is permitted in an industrial zone, but not in a business zone. However, it is permitted with a Special Permit by the Fairhaven Planning Board. That's what Mr. Sylvia has done. He has applied for a Special Permit from the Planning Board. The Board of Health has had some issues with the times of use by the terminal. The Town Collector states that he is in the clear as far as any tax bills. The Fire Department has commented about a similar situation. I have also received letters from a number of abutters.

Michael Kehoe (attorney for applicant) - He's looking at a 5 truck, 5 trailer combination. These are fine trucks. Executive Coffee was different with 50 to 60 trucks per day. We have regulations for the noise level. These trucks don't idle for more than 5 minutes. The intent is to create the least amount of disturbance as possible.

Robert Sylvia - (Describes the operation when Executive Coffee was operational). This will put people to work. That is what this economy needs.

Chairman Hayward - I have never seen a variance. And it's always been zoned business?

Robert Sylvia - Yes.

Chairman Hayward - Bill, will you look into that for me? What was going on from 2000 to 2010.

Robert Sylvia - We received a cease and desist in 2006 and we ignored it. So, we haven't done anything since.

Chairman Hayward - What happened with the gas station?

Robert Sylvia - We decided not to do it.

Timothy Cox - Did anyone from the Town come down there and tell you how to do it the right way.

Robert Sylvia - No. When I needed that Special Permit, I went before the Zoning Board of Appeals.

Chairman Hayward - We had Special Permit granting authorities as did they.

William Roth - There was some misdirection on the application.

Chairman Hayward - This has been duly advertised and the abutters have been noticed.

Robert Sylvia - I have had many tries at re-zoning. I was misinformed at Town Meeting.

Chairman Hayward - I'd like to get the attorney's take on the non-conforming use.

Michael Kehoe - The law says that if you abandon the property for 2 years or more, you have no rights. However, in this case, there is no legal non-conforming use.

Chairman Hayward - He's not proposing warehousing now, is that correct?

Michael Kehoe - No, he's not proposing warehousing.

Raymond Fleurent - At one time there was a lumber yard proposed there and it didn't happen. Are they going to bring anything on site?

Robert Sylvia - Just overnight.

Albert Sylvia - What is it that you're bringing in and out of there?

Robert Sylvia - It's for construction use.

Albert Sylvia - He's a good business man trying to make money. He's got 5 trucks now. Eventually, he'll have 10, or 20.

William Roth - The Board can put any conditions that they want on special permits.

Chairman Hayward - History shows that we have worked with you on this property. I'm not seeing the items we need to see on the paperwork.

Chairman Hayward - We received a letter from Karen Isherwood in opposition to this as well as one from Michael and Susan Powers.

Michael Powers (abutter) - I'd like to present a petition as well as some photographs. The decibel levels are outrageous in the neighborhood when this was going on. It creates a hostile environment.

Robert Sylvia - I responded quickly to his complaint.

Peter Gobon (abutter) - Can I see the map? I built my home in 1991, I was never awoken from Executive Coffee. But this last summer, the noise and the fumes bothered me.

Greg Walton (abutter) - The noise is a problem.

Kathy Luiz (abutter) - The noise is a problem very early in the morning.

Susan Powers (abutter) - Those trucks run for hours.

Sarah Powers (abutter) - The conservation land down there is compromised by this.

Rachel Ratajack (abutter) - It's nothing personal against Mr. Sylvia. It's just not right for this neighborhood. I'm opposed to it.

Lori Walton (abutter) - I am home during the day and I do hear it during the day.

David Morro (abutter) - There's an environmental issue with what they're doing as far as asphalt goes.

Normand Nadeau (abutter) - I'm also concerned about the fumes. Also, I'm awake at 5:00 a.m. and I can hear them. Who is going to pay for the repairs to Little Bay Road? We are, the taxpayer.

Michelle Couture (abutter) - There's obviously a noise problem.

Tom Johnson (abutter) - There is a problem with the number of vehicles.

Shelley Moniz (owner of Executive Dog in that plaza) - I don't have a problem with it.

Further discussion on the issue ensued.

Gary Staffon motioned to continue the Special Permit at the applicant's request. Timothy Cox seconded. The vote was unanimous in favor. The motion passed.

2) Zoning Bylaw – Text Amendment – Section 198-19 Fences

Chairman Fleurent - I have an amendment to offer. All fences shall be installed so that the finished side faces the abutter.

Discussion ensued on the issue.

Albert Silva motioned to accept and approve Mr. Hayward's amendment section "C". Timothy Cox seconded. The vote was unanimous in favor. The motion passed.

Albert Silva motioned to accept the proposed Text Amendment as amended and recommend approval to Town Meeting. Timothy Cox seconded. The vote was unanimous in favor. The motion passed.

**V. OTHER BUSINESS –**

1) 2009 Town Meeting Report –

William Roth - Please review, I have to submit it to the printer tomorrow. I get to proof it when it is typeset, so there is one more chance to correct anything. I will put this on the agenda for the next meeting just in case you have any corrections.

Marinus Vander Pol motioned to approve the report. Timothy Cox seconded. The vote was unanimous in favor. The motion passed.

2) FHA Main Street Subdivision – 249 & 253 Main Street

William Roth - This was signed, but not dated. Is it acceptable to put today's date on it?

Gary Staffon - I don't see a problem with that.

Timothy Cox motioned to adjourn. Albert Silva seconded. The vote was unanimous in favor. The motion passed. The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

James Pelland, Secretary  
To the Planning Board