

PLANNING BOARD MEETING of February 26, 2013: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairperson, Wayne Hayward - Opened the meeting at 6:30pm

Quorum/Attendance

Members Present – Chairman Wayne Hayward, Francis Budryk, Kaisa Cripps, John K. Farrell Jr., Rene Fleurent, Jr., Jeffrey Lucas and Peter Nopper

Members Absent -- Gary Staffon

Planning Director William Roth was also in attendance.

Acceptance of Minutes February 12, 2013

Kaisa Cripps had a few questions/amendments to the minutes. Her first question was whether to put the sign in sheet of people that spoke as part of the minutes, to which William Roth stated it was part of the record and didn't need to be included in the minutes.

Ms. Cripps asked to amend the minutes to reflect that Barbara Acksen was there representing herself as a Fairhaven Citizen, not as a representative of the Board of Health. It was so amended. And secondly, there was a question on the spelling of "Barbra"; William Roth was going to follow up and correct if needed.

Ms. Cripps also questioned whether a change in the minutes re: Curt Devlin being "very passionate" in his speech be changed to perhaps in "a very loud voice"; however, the other Board members were okay with the word 'passionate' remaining.

Kaisa Cripps made a motion to accept the minutes with the two amendments and was seconded by Francis Budryk. The motion passed unanimously.

Planning Board Bills:

1. **Staples** - \$343.97 – Office Supplies

Jeffrey Lucas made a motion to pay the Staples bill of \$343.97, and was seconded by Peter Nopper. The motion passed unanimously.

2. **Fairhaven Neighborhood News** – Wind Bylaw Amendment AD - \$140.00 and Baycoast Bank - \$120.00.

Jeffrey Lucas made a motion to pay these two bills to Fairhaven Neighborhood News, and was seconded by Peter Nopper. The motion passed unanimously.

II. CURRENT PLANNING:

Receipt of Plans:

1. Def Sub - **David & Sandra Teves** – Judson Drive (PH 3/26/13)

Rene Fleurent, Jr. made a motion to schedule the Definitive Subdivision Public Hearing for March 26, 2013, and was seconded by Jeffrey Lucas. The motion passed unanimously. Wayne Hayward abstained from the vote, as he is an abutter.

Approval of Plans:

None

III. PUBLIC HEARING:

1. Special Permit – Dwelling Conversion – **Carl Hoines** – 313 Huttleston Avenue (con't from 01/22/13)

Wayne Hayward - this was a Public Hearing that was continued from January 22, 2013.

William Roth reviewed his report and recommendations with the Board. Mr. Roth stated that the Board of Health had submitted a letter requiring the property tie in to the sewer. Mr. Roth explained that the overall property contains 24,480 square feet, which is made up of 4 parcels. Mr. Roth recommended that the Board approve the Special Permit with 5 conditions identified in his report.

Jeffrey Lucas asked if there were two means of access for both apartments?

Mr. Hoines said, 'Yes. The side door divides into each apartment.'

'So, the side entrance is common and shared?', Mr. Rene Fleurent, Jr. asked.

Mr. Honies responded, 'Yes.'

Jeffrey Lucas asked if Mr. Hoines agreed to all five conditions; to which Mr. Hoines said, 'Yes.'

Francis Budryk made a motion to approve the Special Permit with the five Conditions as outlined by William Roth, and was seconded by Rene Fleurent, Jr. The motion passed unanimously.

2. Special Permit: **BayCoast Bank** – 75 Alden Road

Brian Dunn, of MBL Engineering was present. He explained they were proposing improvements to the property; specifically adding another drive-through lane (there are two currently), and a bypass lane for safety issues. They were proposing new directional signs and a drainage plan on the lot. Mr. Dunn explained they were improving existing conditions.

William Roth reviewed his Memorandum and Report to the Board. Mr. Roth advised that this project will also require a Variance from the Board of Appeals for encroachment into front setback and that will be heard on March 5, 2013. Therefore, Mr. Roth recommended to the applicant that they wait until that hearing is heard, before the Planning Board approves this Special Permit.

Kaisa Cripps asked the Applicant if they were keeping the flag pole as on the amendment plans, to which Mr. Dunn said they are.

John Farrell said he is aware that there is a traffic issue there now, and if there were any thoughts for redirecting the traffic to behind the building?

William Roth explained there were grandfathered issues; and that because there wasn't such significant changes to the plan that he didn't feel it warranted that change. 'Of course,' he said. "If this was coming in new today, he would request it to be done differently."

Wayne Hayward asked if they would be sharing on the existing plaza sign? To which, Mr. Dunn said, "Yes."

Peter Nopper asked if the employees would still be parking at the South lot.

Mr. Dunn replied, "Yes."

Francis Budryk asked, 'how many more people would be hired at the bank;' and the bank's representative said, 'approximately six.'

Wayne Hayward made a motion to continue the Public Hearing to March 12, 2013, and was seconded by Francis Budryk. The motion passed unanimously.

IV. LONG RANGE PLANNING:

1. ByLaw Amendment – Chapter 198.29.5 – Wind Energy Facilities

Wayne Hayward explained the Public Hearing closed as of yesterday, and there were a few more notes sent in from residents.

William Roth explained the briefings in the Board's package; the information in the documents, and how they were written up.

Wayne Hayward stated there has already been some of the changes reflected in the Draft document dated 2/18/13. He said the reason why it was clear that at the Public Hearing, that people bring in a copy of they're concerns or thoughts, was so that they could review the information.

Wayne Hayward explained the documents that the Board was looking at. The first Draft (dated 2/18/13) is an updated version, there is one Draft done up with changes requested by Robert Espindola, marked RJE; and a document of information from Louise Barteau.

Mr. Hayward then went on to explain the Setback Waiver (p. 5 of the Draft document); and that it is not a Fairhaven Board induced waiver. He explained it is between the parties involved, and not a Board waiver. He referred the Board to page 5 (b) as being removed from the document.

Mr. Hayward brought it to the attention to the Board that he implemented some of the changes that Robert Espindola had recommended, one was with the language to use WEF (Wind Energy Facilities), in place of writing it out each time. Mr. Hayward said that Mr. Espindola had 'some pretty good wording for Sound.'

On page 11, (d), Mr. Hayward pointed out the 90 day window to work with the Board of Health.

Kaisa Cripps asked if the Board of Health needed to review this document and give feedback on whether or not they would be able to comply with the 90 day window. She wondered if the Board of Health needed to review the language.

Mr. Hayward said that he thought that the Board of Health would be okay with it.

Kaisa Cripps made a suggestion to page 11, (d) to change wording of "operated in compliance for 90 consecutive days" to "in compliance with MA General Laws 310 CMR 7.10". She questioned if someone would understand who they have to be in compliance with, if it didn't read with the MA General Laws.

William Roth advised that the MA General Laws 310, CMR 7.10 is listed at the end of (d), therefore it wasn't needed to be clarified at this line.

Wayne Hayward pointed out that further down in the document is what Ann DeNardis was referring to when she said 'what do they need to comply with' (p. 12). He also pointed out on page 2, (J), is what Louise Barteau referred to in her document regarding 1 mile for abutters. Mr. Hayward said, "She made a good point," and referred the Board to read (J) additional abutter notice requirements, as 300' from outermost setback area.

Jeffrey Lucas suggested perhaps rather than expanding the radius for abutters, maybe they could generalize it in the newspaper or advertisement.

William Roth said that it was a requirement by law to notify abutters.

Discussion ensued on what was the best area for identifying abutters to the physical spot; or at a minimum 300' from outermost parcel, not turbine, and notifying abutters.

Kaisa Cripps had a thought process of perhaps having the owner putting it on-line, or making it a requirement that they need to post on-line.

Wayne Hayward explained that everything they talked about at the Public Hearing was reflected in the document and everything that has come in since, is not.

Wayne Hayward read from Louise Barteau's information that read, "The Cape Cod Commission approved setbacks of 10x the MTH would be 2650 feet"; however Mr. Hayward that information is not 100% correct.

Wayne Hayward reviewed the information sheet they had in front of them, from the Public Hearing: "Responses to Public Hearing Testimonies for Zoning Bylaw" with the Board.

Kaisa Cripps asked what the intent of the responses were?

Wayne Hayward explained it was just a synopsis of what the Resident said, the response to it, and then what action was taken (to include in the Draft for example), if anything.

Kaisa Cripps asked for a change to #8, Dawn Devlin; under the Response, it reads "Somewhat agree," and Ms. Cripps said she didn't think the Board could make that judgement, and asked that the Board change it to, "This is not the jurisdiction of the Planning Board."

Wayne Hayward said he had no problem doing that.

William Roth advised the Board he would not be present at their next meeting which is March 12, 2013; and he thinks that the Board needs to make a decision by then regarding the Draft. "With no objection from the Board, as it stands, he can get a clear copy for all for the next meeting."

Wayne Hayward said that the vote the Board needs to take is to whether or not to recommend the Draft By-Law to Town Meeting.

Wayne Hayward asked if there was any questions on any Board members minds on the Draft currently.

Jeffrey Lucas wanted to recommend 5x's the MTH, for Utility Scale. (pg. 5 at the Top)

Wayne Hayward said, 3, 4, 5; it started at 3x's, went to 4x's; Umass in Dartmouth is 2x's the height of all the dorms; Hull is around 2.5 (less than 3).

William Roth said the concensus at the Public Hearing was 5x's.

Rene Fleurent Jr. said he felt there was a silent majority out there; who are reluctant to speak on PRO of the Wind Turbines

Kaisa Cripps said she thought 4x's was a bit too much and she would personally not vote for 5x's.

Rene Fleurent Jr. said he thought the Draft By-Law was too constrictive.

Francis Budryk said he agreed with Jeffrey Lucas, that it should be 5x's.

Peter Nopper believed there were a lot of Green People, and he didn't want to deter them.

John Farrell said he thought 4x's is reasonable.

Rene Fleurent Jr., said 3x's would be adequate with a minimum of 1000' but in order to be align with the Board, he'd go with 4x's.

Kaisa Cripps thought 2x's, but to align with the Board she would go with 4x's as well.

Jeffrey Lucas said his objective to say 5x's, is that at least you could go down to 4x's at the Town Meeting floor.

Wayne Hayward said he was comfortable with 4x's.

Francis Budryk asked about the Town Meeting procedure, and how a person (Town Meeting Member) votes on the By-Law if they don't understand it. He wondered if they fully read the By-Law prior to meeting.

William Roth explained that Town Meeting is mailed a packet of information, in advanced of Town Meeting, and the By-Law would be among the information, and they either read or they don't.

Wayne Hayward said that a lot of people look to the Planning Board and vote by our recommendation.

Jeffrey Lucas said it's very different for every person. "Some read it, some don't and some vote with their friend."

Rene Fleurent, Jr. began a brief discussion about the Annual Operations and Maintenance Report in the Draft By-Law (the last page), and suggested changing the 'Board of Health Operational Noise Analysis' and 'Avian Impact Analysis' to say "Monitoring" vs. Analysis. Mr. Fleurent didn't want someone to think they had to actually do an analysis on a yearly basis, because it can be an expensive process for them.

There was a brief discussion and all agreed to change the word "Analysis" to "Monitoring".

Kaisa Cripps asked if Town Counsel reads the By-Law prior to Town Meeting.

William Roth said that once it's been approved through Planning Board, it is sent to Town Counsel.

The Board agreed that William Roth will make and update changes and get a new copy out to everyone prior to the next meeting.

2) Review & Discussion – **Solar Bylaw**

William Roth advised Board members they should all have a Draft of the Solar Bylaw. He recommended if they want it to go to Town Meeting they would have to schedule a Public Hearing for March 26th, and a work session on March 12th.

Wayne Hayward said that the only changes made is what's reflected from their previous meeting.

Kaisa Cripps recommended on page 1 (a) Purpose.. to use the word "encourage". "The purpose of this by-law is to encourage".

Wayne Hayward explained there are only 3 choices in using Solar. The first is On-Site (which is meant to be done behind meter); second is Commercial Class – Large grand scale, (sells electricity to grid); and lastly is Large Scale. He explained the Town of Fairhaven currently has 500k at landfill.

William Roth said the areas of Town where you are looking at for Large Scale is East of Route 240, North of Route 6 and the farms off Shaw Road. These are the areas of Town that have the vacant acreage needed.

Kaisa asked/questioned p. 7 the definition of On-site Solar Photovoltaic, using the word “primarily”.

Discussion of regulating power – “inter connect agreement.”

Brief discussion brought by Francis Budryk on Medical Marijuana.

William Roth said that he felt it was premature to think about any zoning regulation for that because the State DPH has not even come up with rules and regulations.

William Roth stated he will clean up the document and have it available to members for the March 12, 2013 meeting.

Kaisa Cripps made a motion to hold a Public Hearing for Solar By-Law on March 26, 2013; and was seconded by John Farrell. The motion passed unanimously.

V. CORRESPONDENCE:

None

VI. OTHER BUSINESS:

None

Jeffrey Lucas made a motion to adjourn, and was seconded by John Farrell. The motion passed unanimously.

Meeting adjourned at 9:20pm.

Next Meeting is March 12, 2013.

Respectively submitted,

Patricia A Pacella
Recording Secretary, Planning Board