

PLANNING BOARD MEETING of March 12, 2013: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

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

Quorum/Attendance

Members Present – Wayne Hayward, Jeffrey Lucas, Francis Budryk, Peter Nopper, John Farrell Jr, Gary Staffon and Rene Fleurent Jr. (at 6:47 p.m.)

Members Absent - Kaisa Cripps

Planning Director William Roth was not in attendance.

Acceptance of Minutes February 26, 2013

Francis Budryk made a motion to accept the Minutes of February 26th, and was seconded by Gary Staffon. The motion passed unanimously.

Planning Board Bills:

1. **Fairhaven Neighborhood News** – ADS – 111 Huttleston Avenue, LLC - \$75.00 & Ristuccia - \$75.00

Francis Budryk asked if we get the money back for these; and Wayne Hayward said, "Yes."

Jeffrey Lucas made a motion to pay both bills to the Fairhaven Neighborhood News, and was seconded by Gary Staffon. The motion passed unanimously.

II. CURRENT PLANNING:

Receipt of Plans:

None.

Approval of Plans:

None

III. PUBLIC HEARING:

1. Unacc ST Disc – 111 Huttleston Avenue, LLC – Maciel Street

Wayne Hayward opened the Public Hearing, and read the advertisement. Mr. Hayward explained this was the property of the old Cox's Candy, the property between Bridge Street and Huttleston Avenue. He also explained it was a paper street that's never been constructed.

Engineer, Kenneth Ferreira was present on behalf of the property owners, The Melanson's. He explained where the paper street was located, on the property of the former Dorothy Cox's Candy, now Emma Jean's Confectionary's. He explained they now own Huttleston House and they are going to raze the building and come in with a future development. He advised that an abutter to the property, Mr. Gracia has no interest in the street, and owns 20% of it; there will be a formal Quick Deed processed by the Attorney that will be filed once they do a Form A.

Rene Fleurent, Jr. came in at 6:47 p.m.

Francis Budryk said, "It's a no brainer to combine these."

Mr. Ferreira said that they were going to do a one way access to Holcomb Street, and two way to Bridge Street, he explained he was just indicating the overall plan.

Gary Staffon asked about the abutters on Huttleston Avenue, at 140 & 142.

Mr. Ferreira stated that 142 Huttleston Avenue was a rental property, and the lot is already broken out; that is a standalone property.

Wayne Hayward called for abutters, to which there were none.

Wayne Hayward explained that the vote requires five positive votes from the Board. He read from William Roth's memorandum, that there is a date of September 12th for the Form A.

Jeffrey Lucas made a motion to accept the discontinuance of Maciel Street, and was seconded by Gary Staffon. The motion passed unanimously.

2. Unacc ST Disc – **Michael Ristuccia** – Ebony, Dogwood & Fir Streets

Michael Ristuccia was present to speak on behalf of his proposal. He explained the plan before the Board, explaining the dotted lines on the plan and the lots inside them are all lots that he owns. He said they wanted to make it all one lot. (He and his brother's wife are the names listed on the property).

Wayne Hayward said it was a good thing that he owns all the property around. He asked about the 20' Right of Way that Mr. Ristuccia is leaving on Fir Street.

Mr. Ristuccia said that he occasionally sees walkers with dogs on that property; therefore, he figured he'd leave a 20' Right of Way. "It's very peaceful and quiet there," he said.

Wayne Hayward said, "And no possibility of being constructed in the future, right?"

Mr. Ristuccia said, "Correct."

Wayne Hayward said there were back taxes due on the property and that would have to be dealt with before a Form A is filed.

Mr. Ristuccia said that he was aware there were back taxes and he plans on updating that prior to the filing of the Form A. He explained that the property has always been in his family and his brother owned some of the property and didn't pay the taxes on it and didn't want anything to do with the land; that's why he was taking over the property.

Wayne Hayward read from William Roth's Conditions of Approval; which included the taxes being paid on the property and the filing of the Form A.

Mr. Ristuccia said he intends to pay the back taxes within the next 30 days.

Jeffrey Lucas asked if the Board or Mr. Ristuccia has heard from the West Island State Reservation, in reference to Fir Street.

Mr. Ristuccia said he reached out to all abutters, and left a message for them, and hadn't heard from anyone.

Wayne Hayward reiterated these were two paper streets.

John Farrell Jr. pointed out a typo on William Roth's Memorandum, the 'footer' lists "Melanson" instead of Ristuccia in error.

Francis Budryk made a motion to accept the discontinuance streets as been identified, and was seconded by Rene Fleurent, Jr. The motion passed unanimously.

Mr. Ristuccia asked if there was a waiting period; to which Mr. Hayward advised he was unsure, but that he should get something referencing the minutes that it was approved.

3. Special Permit – **BayCoast Bank** – 75 Alden Road (con't from 2/26/13)

Wayne Hayward opened the continued Public Hearing for BayCoast Bank. He explained that there were seven members present, and six could vote if they so chose to.

Rene Fleurent, Jr. said, "As an associate member of the Zoning Board of Appeals, he heard the variance but did not partake in the vote."

Wayne Hayward explained they held this Public Hearing at the last meeting, and it was continued because the Applicant had to go before the Zoning Board of Appeals (ZBA) for a variance, and that was the only thing they were waiting for.

Engineer, Brian Dunn was present on behalf of the Applicant, and he stated that it was a favorable meeting with the ZBA from his understanding.

Wayne Hayward said there were no issues of back taxes and all departments have been informed of the Proposal. He advised there were ten conditions recommended by William Roth.

Jeffrey Lucas asked Mr. Dunn if there were any changes to the plan.

Mr. Dunn explained there were just a slight change with the drain lines; they would be ductile iron, or reinforced concrete per the BPW requirement.

Francis Budryk made a motion to accept the Special Permit for BayCoast Bank at 75 Alden Road with the ten conditions that have been outlined, and was seconded by Peter Nopper. The motion passed unanimously. Gary Staffon abstained (as he was not present at the original Public Hearing).

IV. LONG RANGE PLANNING:

1. ByLaw & Amendment – Chapter 198.29.5 – **Wind Energy Facilities**

Wayne Hayward explained that on Pages 11 & 12 of the Draft dated 3-12-13, there were some changes made; he advised where the strike outs are what was removed. He said there were some concerns about mandating the Board of Health; he said they did tone it down a bit. He also said that any Special Permit Constructions would involve BPW & BOH, so they are still referenced but taken back a little. Mr. Hayward explained that he was comfortable with the language under D on page 11 and page 12. He said that one of the Selectman offered a suggestion that the trigger of 5 complaints not to be included, and that was something they did strike.

Rene Fleurent, Jr. asked if it would be at the discretion of the Board of Health.

Wayne Hayward said that it was not a 'discretion'; it would be up to the Board of Health anyway; and there would be a commissioning period.

Rene Fleurent, Jr. asked, 'So tests have nothing to do with after the fact.'

Wayne Hayward said, 'No. Board of Health will be mandated or EPA or a court order.'

Wayne Hayward said they changed some of the language that is required on an article for Town Meeting.

Jeffrey Lucas had some concerns on the parenthesis of (DEP) on page 10, 5 Noise. It is currently written, "provisions of the Department of Environmental Protection's, Division of Air Quality Noise (DEP)", and Mr. Lucas wondered if (DEP) should be before the comma.

Rene Fleurent, Jr. thought it was in the right place, because it's singular, they are one department.

Wayne Hayward said they are up against the wall with this to get in to Town Meeting, so they would have to act on it this evening. He said once approved by the Board tonight, he will get a copy of the By-Law to the Board of Selectman in the morning and they know it's coming from him and not from Mr. Roth.

Gary Staffon made a motion to find out how the (DEP) should be written, and if it needs to be changed that Wayne Hayward can change it; and was seconded by Jeffrey Lucas. The motion passed unanimously.

Wayne Hayward explained that the motion to approve the By-Law has to be that they 'recommend' it to Town Meeting.

Rene Fleurent, Jr. asked that they continue to review the By-Law prior to the motion.

Wayne Hayward called the Board's attention to pg. 13, Definitions; and advised that these definitions are according to the Zoning By-Law.

Wayne Hayward said they have been roughly working on this By-Law for a year, and they've reviewed it, and modified it and he believes it accurately reflects what they'd like to see Wind Turbines in the future. He said he felt there were many changes made from the Public Hearing, not all changes, but definitely some were made. He said that Mr. Roth seemed to be okay with it as well.

Rene Fleurent, Jr. said he would like to acknowledge the time Ms. Cripps put in her email referencing the Draft By-Law. He said some of it, he didn't understand, and wishes she was present to elaborate; but he did want to acknowledge her concerns.

John Farrell Jr. asked, 'not every recommendation that Ms. Cripps recommended is a change, is that correct?'

Wayne Hayward said, 'No. Everyone has an opinion. No disrespect to Ms. Cripps, her Planning Board experience is a little more limited than the Town Planner. Mr. Hayward said that some of her concerns were the down stream process and he thinks this is our best attempt to satisfy everyone.

Gary Staffon made a motion for a positive recommendation of the Wind Turbine By-Law to Town Meeting, and was seconded by Jeffrey Lucas. The motion passed unanimously. (7 in favor, 7 in attendance.)

Francis Budryk said to Wayne Hayward that he appreciated all the work that was done on the By-Law, and that he, himself learned a lot. "It was very constructive, and I hope the Town appreciates it."

2. Review & Discussion – **Solar ByLaw**

Jeffrey Lucas asked if they have time constraints on this as well?

Wayne Hayward said that he received an email late this afternoon from the Board of Selectman, that there deadline was going to be March 21st. He said that if a consensus is reached tonight, he will ask the Selectman to give them a window after their deadline date, because the Board's Public Hearing on the matter is March 26th, after the 21st.

Wayne Hayward said he had a discussion with the Department of Energy, in regards to 250kw, and the significance of that number between small ground units and large ground units.

7:46 p.m. The lights went out for approximately 15 seconds, the generator kicked on. Wayne Hayward recessed the meeting to find out what was happening, and if they were back up live taping.

7:48 p.m. Wayne Hayward called the meeting back to order; he explained it was not going to be live; but being DVD recorded.

The Board continued with discussion around fencing around the units.

There was a brief discussion about possible issues of abandonment.

Jeffrey Lucas referred the Board to page 4 (12) "shall be fenced for security", and questioned whether there should be something added for High Voltage Signs.

Wayne Hayward said when the site is visited; there is usually an abundance of signs.

John Farrell Jr. asked, "Is there high voltage on-sight?"

"Yes," Wayne Hayward said. "DC voltage."

Jeffrey Lucas brought the Board's attention to pg. 3, G (2) (c), and the word "methods".. "Not cast glare to abutting uses by providing screening methods." He felt it should read, 'by providing acceptable screening', not using the word "methods".

Wayne Hayward said that could be accomplished in a number of ways; he wanted it clear to them they are going to be looking at glare.

Rene Fleurent, Jr. said, 'They're pretty flat; angled to the sun.'

A discussion ensued.

John Farrell Jr. asked if there were any discussion or what goes under the panels, when they're on the ground (example: the picture with the ground stone underneath panels.)

Wayne Hayward said that the stability of the site was more the discussion.

Rene Fleurent, Jr. thought that there should be natural vegetation underneath.

Gary Staffon questioned the stormwater drainage underneath, and a discussion ensued.

John Farrell Jr. referred to pg. 4, (G) 9.. "clear cutting of trees and natural vegetation, within 5 years, shall be prohibited.."

Wayne Hayward said what they don't want is someone coming in on a 10 acre parcel that is 100% forest, and clear cutting it. He said the State recommends 5 years.

John Farrell Jr. questioned why it said "operation and maintenance"; saying 'so if there's one tree in the way, they can't cut it.'

Rene Fleurent, Jr. stated that they could be clear cutting it for many other reasons; and they're making it more difficult to go Green.

John Farrell Jr. said he was not for clear cutting. "I am green." He wondered how difficult they are making it for people.

Wayne Hayward said that the applicant would have a landscape architect come in and it would be all laid out in the plans as conditions. He said it would be up to them to put it in the proposal.

John Farrell Jr. asked if the Board knew of any other By-Law that has this language that prohibits clear cutting.

Wayne Hayward said, 'Yes.'

Wayne Hayward referred Board back to the Draft recommending anything in yellow to be removed. He said they didn't have to approve this tonight; they do still have a Public Hearing coming up on it.

Rene Fleurent, Jr. expressed his concern with confusion on how page 3, G read (if they take out 2).

Wayne Hayward explained how "G" should be read.

Jeffrey Lucas said he'd be in favor of striking the yellow.

Wayne Hayward said that he wanted to get an informal accept on how people felt about removing the yellow or changing it. At this point they would be recommending to Town Planner either strike out yellow or strike and combine; everyone in favor pretty much of moving forward?

Everyone agreed to what was discussed and raised their hands to move forward to Town Planner to strike the yellow.

Wayne Hayward said that Voting Day coming up on April 1st. A candidate's night on March 20th.

John Farrell Jr. announced that he will be the proud father of twin girls on March 27th.

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

Next Meeting on March 26, 2013.

Meeting adjourned at 8:42pm.

Respectively submitted,

Patricia A Pacella