

PLANNING BOARD MEETING of May 14, 2013: Town Hall Banquet Room

**I. ADMINISTRATIVE BUSINESS**

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

Quorum/Attendance

Members Present – Chairperson, Wayne Hayward, Francis Budryk, John Farrell Jr., Rene Fleurent Jr., Peter Nopper and Gary Staffon. Jeffrey Lucas (arrived at 6:51pm)

Absent – Kaisa Cripps

Planning Director William Roth was in attendance.

Acceptance of Minutes:

Gary Staffon made a motion to accept the April 23, 2013 minutes, and was seconded by Francis Budryk. The motion passed unanimously.

Planning Board Bills:

**1. DesLauriers & Associates – GIS Update – Eisenberg - \$40.00**

William Roth explained this was for updating the GIS Map.

Wayne Hayward made a motion to pay this bill for the GIS Update, and was seconded by Gary Staffon. The motion passed unanimously.

Wayne Hayward asked if we were still working on the Washburn Street Project?

William Roth said, Yes, there were still some problems with it. Most recently, the fill material for the road was unsuitable, so they are going to have re-do it.

**2. SRPEDD – North Fairhaven CDBG Target - \$700.00**

William Roth explained that there was money from Fiscal 2012 that they encumbered for the GIS mapping for the next target area. He explained the total bill was \$3100.00; \$2400 came out of the Planning and Economic Development Department encumbered FY12 account.

Gary Staffon made a motion to pay this bill for \$700.00, and was seconded by Francis Budryk. The motion passed unanimously.

**3. SRPEDD – Annual Meeting - \$280.00**

Wayne made a motion to pay this bill for \$280.00 for the attendees going to the Annual Meeting and was seconded by Gary Staffon. The motion passed unanimously.

William Roth reminded everyone that the meeting was next Wednesday, May 22, 2013, at the Fairfield Inn in New Bedford.

**4. Chadwick's – Name Plates - \$24.00**

William Roth advised these were new name plates for Patricia Pacella, John Farrell, Jr. and Kaisa Cripps.

Gary Staffon made a motion to pay the Chadwick's bill of \$24.00 and was seconded by Francis Budryk. The motion passed unanimously.

#### 5. **Neighborhood News** - \$65.00

William Roth explained the total bill for the Teves Subdivision and Solar By-Law through the Neighborhood News was \$135.00. At the last meeting, they had only signed one sheet for \$65.00 to come out of the 89 account, and he didn't realize there was a second sheet that needed to be signed.

Francis Budryk made the motion to pay this bill for \$65.00 for the Neighborhood News and was seconded by Peter Nopper. The motion passed unanimously.

Before continuing, Wayne Hayward announced that he was proud of the great job that William Roth did at Town Meeting in presenting and fielding questions on the Solar and Wind Turbine By-Laws. Mr. Hayward said he was not in attendance at the Town Meeting, but he was aware that both passed with few questions. Mr. Hayward thanked Mr. Roth. Mr. Hayward also congratulated Jeffrey Lucas, Chairperson of CPC, whose article 31A went over well at Town Meeting as well. "That's a good thing, in my opinion," he said.

## II. **CURRENT PLANNING:**

### Receipt of Plans:

1. Special Permit – **Mill Bridge Holdings** – 200 Mill Road – (PH -06/11/13)

William Roth advised the Board that they were going to remove underground tanks, and add parking on the Bridge Street side of the property. Mr. Roth was recommending the Public Hearing to be scheduled for June 11, 2013.

Gary Staffon made a motion to set the Public Hearing for Mill Bridge Holdings on June 11, 2013 and was seconded by Peter Nopper. The motion passed unanimously.

### Approval of Plans:

1. Lot Release Request – **Welcome Street Subdivision** – Lots 5 and 9

William Roth advised the Board that Mr. Martin was still in Florida and that previously the Board had agreed to release two lots that Mr. Martin had requested because at the time he had a P&S signed with a builder; however since then, the P&S had fallen through. Mr. Roth stated there was another builder who wanted to build houses on lots 5 and 9, and Mr. Martin was requesting those two lots to be released instead.

Wayne Hayward confirmed there was nothing signed at the last request. Mr. Hayward also asked if Lot 9 was at the end.

William Roth confirmed that Lot 9 was the one at the end. He also advised that Mr. Martin stated they have already received quotes for paving the street, and that was expected to be done this summer.

Wayne Hayward made a motion to release Lot 5 and 9 and was seconded by Gary Staffon. The motion passed unanimously.

## 2. Form A – **Alan Ewing** – off New Boston Road

Paul Matos, GAF Engineering, Inc. - Engineer and Land Surveyor was present to speak on behalf of the applicant, Alan Ewing. He explained there was approximately 98 acres, and they were upgrading two lots. Mr. Mattos advised that the two combined lots totaled 16 ½ acres, 23' frontage. It was not a buildable lot but combined.

Wayne Hayward expressed some concern that if this was a true ANR plan and all the frontage was met it would be impossible to deny; however his concerns were that with the two separate lots it did not meet the frontage.

Paul Mattos said that the Assessor's office would see this as one Lot. "At the end of the day, we only have one buildable lot out there," Mr. Mattos said.

William Roth reviewed his Memorandum to the Board, in which he recommended approval. Mr. Roth explained that the proposal is to take 13.60 acres from Lot 2 and add it to Lot 15, owned by Mr. Ewing. In this case, Lot 2 is a Registered Land and Lot 15 is non-registered and they cannot be combined. Therefore, a separate lot, Land Court Lot 5 will be created with a note that it is not to be considered a separate lot, but is intended to be combined with Lot 15. Mr. Roth said that normally if the land is unregistered, he would say no to the applicant; and that over the last twelve years that he's been there, we've signed off on registered/not registered lands. "I feel comfortable with this approval," Mr. Roth said.

Wayne Hayward said this was not the usual Form A they are used to seeing.

Wayne Hayward asked Mr. Ewing what the intent of this plan was.

Alan Ewing said he will be retiring in one to two years and it's an all clear field, with wooded area; and he just wants to spend time out there. Maybe have beef cattle. He said he had no interest in Wind Turbines or Solar Panels. He said that Mr. Robichaud planned to do forestry work there and he would continue to use the stem as tractor access.

Mr. Ewing explained that the land is currently under agriculture use, and he intends to keep it that way.

Paul Mattos asked if Mr. Hayward's concern was saying it was a "lot" vs. "parcel". He said that Land Court tells him it's Lot 5 & Lot 6.

Wayne Hayward said if the frontage were there the Board would be mandated by Law to approve, if not it leaves a question.

Discussion ensued on the frontage available and what if the access was not there.

William Roth suggested a compromise to the Board that perhaps the plan could be revised without the flag stem. Mr. Robichaud could give Mr. Ewing the easement, which would get rid of any access to New Boston Road, and the note could be revised on the plan.

Wayne Hayward suggested that the note could say, Per our regulations, not buildable until he comes back in front of Planning Board. Mr. Hayward expressed his concern that someone in the future could go in front of the Zoning Board of Appeals and get a variance, and it would be granted for a subdivision.

Paul Mattos expressed that no matter what they would have to come back in front of the Planning Board. He also said there was no way ever, that a variance would be approved at a Zoning Board of Appeals in the State of Massachusetts because they were creating their own hardship.

Alan Ewing said again that there was an agricultural restriction on the property anyway and they would have to go through the Selectman and others if they wanted to do that change.

Mr. Robichaud said that the agricultural restriction has been on the property for 20 + years.

William Roth said the cleanest way would be to add an additional note.

Mr. Robichaud said, "We're just two guys trying to do the right thing."

Wayne Hayward said, the problem is I just don't see a Form A.

Paul Mattos said that Land Court has approved the plan; all our preliminary and finalized work. Your assessor's office has this as one Lot.

Wayne Hayward said he only has the word of the applicant. "It's doable, according to the note," he said. "They would have to come before us."

Wayne Hayward said the plan doesn't show an ANR, it shows a subdivision.

Gary Staffon expressed some confusion about the registered and unregistered lands.

Paul Mattos said that you can't combine registered land with unregistered land.

More discussion ensued.

Gary Staffon made a motion to accept plan as presented with the notes and was seconded by Wayne Hayward.

On the question, Jeffrey Lucas asked if the motion should reflect it doesn't have the proper frontage?

Wayne Hayward said the plan will reflect that, along with the minutes.

The motion passed unanimously.

### **III. PUBLIC HEARING:**

#### **1. Def Subdivision – David & Sandra Teves – Judson Drive – (con't from 3/26/13)**

Wayne Hayward requested himself, as he is an abutter turned the Public Hearing over to Vice Chairperson, Gary Staffon and left the meeting room.

Rene Fleurent, Jr. stated he was a part of the Zoning Board of Appeals when this came before them; however, he did not vote on it.

William Roth advised the Board that this was a continuation from March 26, 2013. Mr. Roth advised that the applicant went before the Zoning Board of Appeals on May 7, 2013, and received the variance. He reviewed his Memorandum with the Board, and recommended approval with 15 Conditions. Mr. Roth did make one change on the conditions, #2 – "the frontage requirement to allow proposed Lot #2 to have 76.87-feet of frontage". (Not 76.86 feet). Mr. Roth stated these were pretty standard conditions.

Douglas Schneider, of N. Douglas Schneider & Associates - the Engineer for the Teves was present and advised the Board they received the Zoning Board of Appeals variance, as Mr. Roth stated. He said they had no issues with the 15 Conditions.

Jeffrey Lucas asked if there was already an easement on the plan for the other driveway.

Mr. Schneider said it was a slight driveway encroachment.

Jeffrey Lucas asked about the draining issues that were brought up at previous Public Hearing by an abutter.

Sandra Teves said that was being resolved with a catch basin.

Francis Budryk made a motion, subject to the 15 Conditions with #2 amended per William Roth's request (76.87-feet); and was seconded by Peter Nopper. The motion passed unanimously.

Gary Staffon said he was happy with our decision on this Subdivision.

**IV. LONG RANGE PLANNING:**

None

**V. CORRESPONDENCE:**

None.

**VI. OTHER BUSINESS:**

First, Wayne Hayward read from the "Code of the Town of Fairhaven" book regarding non-buildable lots.

1. Town Account Letter (Annual): Vote

William Roth stated this is up to the Board on who they authorize to sign the Payroll sheets.

Gary Staffon made a motion to authorize Wayne Hayward as an authorized signer on Payroll only, with William Roth as the second authorizer to sign and was seconded by Jeffrey Lucas. The motion passed unanimously.

2. Newspaper Ad Comparison Rates

William Roth presented the Board with comparable newspaper rates for advertisements, as requested. He stated that the Advocate is \$23.00 per column inch, the Standard Times is \$49.00; and the Neighborhood News is \$20.00 per column inch.

William Roth stated that the Advocate runs on Thursdays with a 300-400 paid subscription list.

John Farrell, Jr. asked if Mr. Roth knew what the circulation for the Neighborhood News was.

Mr. Roth stated he didn't know for sure, but in his opinion, it was a lot more than the Advocate.

Wayne Hayward gave an example of a letter that he sent in to the Neighborhood News supporting an article for Town Meeting and it was in the newspaper on Thursday, May 2, 2013. He also sent a letter to The Standard-Times prior to Town Meeting and it was just put in the paper yesterday, May 13, 2013. "They all make mistakes," Wayne Hayward said.

William Roth said, "Unless otherwise directed, I'm going to advertise with the Fairhaven Neighborhood News."

Rene Fleurent, Jr. said that there was nothing wrong with reviewing their businesses at times.

In other business, Gary Staffon brought up the Marijuana Zoning issues.

Wayne Hayward said that he has heard a lot of chatter in the background, and he's not sure what they should do, but they do need to begin discussing it; and asked Mr. Roth to put it under Long Range Planning, so they could begin discussing.

Rene Fleurent, Jr. asked about perhaps asking Citizens Planners Training Collaborative (CPTC) to come and talk to the Board about the laws and regulations surrounding this topic.

William Roth said he would look into.

John Farrell, Jr. asked why some communities are having a knee-jerk reaction.

William Roth said he believed it was out of fear.

Rene Fleurent, Jr. said, "Let's be proactive, not reactive."

William Roth agreed to add it under Long Range Planning for future discussions. He said it is "highly regulated."

William Roth reminded the Board members that they were to be at the Selectman's Meeting next Monday at 7 p.m., as Al Borges would be presented with his plaque for his years of service. Mr. Roth also stated that after the Monday meeting, SRPEDD would be present to speak on the South Coast Rail.

Gary Staffon advised he would not be in attendance on Monday, as he will be on vacation.

Before the meeting adjourned, Wayne Hayward wished William Roth a Happy Anniversary, as it is his 12<sup>th</sup> Year as Town Planner.

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

The meeting adjourned at 8:25 p.m.

Respectively submitted,

Patricia A. Pacella  
Recording Secretary