

FAIRHAVEN PLANNING BOARD
December 8, 2015
East Room

A. ADMINISTRATIVE BUSINESS:

Chairman Wayne Hayward opened the meeting at 6:30 p.m. and noted the meeting was not being recorded and asked if anyone in the audience was recording it. Nobody was.

Quorum/Attendance:

Members Present: Wayne Hayward, Chairman, Peter Nopper, Rene Fleurent, Jr., Jeffrey Lucas, Gary Staffon and Kaisa Holloway-Cripps

Absent: John Farrell, Jr and Ann Richard.

Acceptance of Minutes:

Kaisa Holloway-Cripps made a motion to approve the minutes of October 27, 2015, and seconded by Rene Fleurent, Jr. Ms. Cripps, Mr. Lucas and Mr. Fleurent had amendments. The motion passed unanimously as amended.

Gary Staffon made a motion to approve the minutes of November 17, 2015, and seconded by Kaisa Holloway-Cripps. The motion passed unanimously.

Planning Board Bills:

1. Legal – Thomas Crotty & Associates – **Brahmin Leather Works4** - \$68.00

Ms. Cripps made a motion to pay Thomas Crotty & Associates \$68.00 and was seconded by Mr. Staffon. The motion passed unanimously.

2. ADS – Fairhaven Neighborhood News – **The Executive Dog, Inc.** - \$130.00

Mr. Staffon made a motion to pay Fairhaven Neighborhood News \$130.00 and was seconded by Mr. Fleurent. The motion passed unanimously.

B. CURRENT PLANNING:

Receipt of Plans:

None

Approval of Plans:

None

C. PUBLIC HEARING:

Chairman Hayward opened up the meeting and introduced the Board and Staff.

1. Special Permit – **Executive Dog, Inc.3** – 105 Sconticut Neck Road

William Roth read the legal notice and then presented his report memo dated December 1, 2015.

Chairman Hayward reviewed the history of the previous Special Permits/

Mr. Lucas asked if the Animal Control Officer (ACO) had reviewed the application?

Mr. Roth answered that he had not routed to the ACO.

Mr. Lucas asked about the inspections and the condition for inspections.

Ms. Cripps indicated that she had knowledge from the previous ACO that the applicant ran a good business and met all requirements.

Mr. Fleurent asked the applicant if she had read the conditions of approval and if she was in agreement?

Shelly Moniz (applicant) answered that she had and had no issue with any of the conditions.

Mr. Staffon motioned to approve the Special Permit subject to the 9 conditions within the report memo and was second by Mr. Nopper. The motion passed unanimously.

2. Text Amendment – Chapter 198, Section 29-G – **Security/Special Permit**

William Roth read the legal Ad.

Chairman Hayward opened the hearing reviewed the bylaw and asked if there were any question. None were asked.

Ms. Cripps motioned to approve the amendment and to send it to the Board of Selectmen for inclusion on the Annual Town Meeting Warrant and was seconded by Mr. Lucas.

On the question, Mr. Staffon asked if the Building Commissioner commented on the amendment?

Mr. Roth indicated that he was routed the amendment and did not comment.

Discussion ensued.

Mr. Staffon noted they would like to move it to Town meeting and would like to have the Building Enforcement Agent in agreement.

Mr. Roth indicated he would have a standard condition that allows for items that are not completed prior to occupancy.

Discussion ensued.

Mr. Roth had to leave the meeting at 7:20 to go to the Board of Selectmen's meeting.

Tracy White entered and started recording the minutes

Nathan Titan of 72 Elm Avenue asked if this would this be a way for the Town to be able to make it easier for businesses potentially to do business but also protect the Town's interest. The Board answered yes.

Mr. Titan said as a business owner in town, one way to attract other businesses is something that is mutually beneficial. Does not hamstring someone.

Mr. Lucas said they would be able to open if they had a surety it would get done in the spring.

Mr. Hayward said it allows them to move forward and not be held over.

Mr. Titan said as someone in Town moving towards that is wonderful.

Mr. Staffon said they have to rely on the business owner to finish. They have no leverage. Once the occupancy permit is finished, they are faced with things unfinished and it is difficult to get it finished and a bond would take care of this.

Mr. Hayward said they are doing this now, but it is specific to those uses.

Mr. Titan said they need to make sure there is cooperation with the different departments and so everyone is on the same page.

Ms. Cripps felt it is a fair, consistent, easy way for businesses to understand the expectations and for accountability to protect the Town.

Discussion ensued.

Mr. Hayward said Ch. 316 is recorded at the Registry. It is part of the Zoning Bylaw and they are up front of what they require for Special Permit.

Ms. Cripps made motion to recommend to Town meeting and was seconded by Mr. Lucas. The motion passed.

Mr. Staffon was opposed.

Mr. Roth rejoined the meeting at 7:30pm.

3. Text Amendment – Chapter 198, Section 16, 25, 27 & 33 – **Motor Vehicle & Boat Sales**

Mr. Roth read into the record Motor Vehicle and Boat Sale legal AD.

Mr. Hayward said the intent of the bylaw change is to re: issuing auto license. The increased intensity of use has brought the need for a formalized process to get a license. The Board of Selectmen would be relieved of the duty of figuring the amounts of cars on the lots. The final draft is before the Board tonight.

Mr. Titan went for Special Permit for parking and boat repair and it piqued his interest.

Mr. Albert Ouellette of Shirley Street is here due to an issue with an adjacent used auto dealer.

Mr. Fleurent, Jr. said he has concerns with this bylaw and is also disappointed with the growth of the Town. There are a lot of businesses in residential areas and he is concerned about the people in the neighborhoods. If these filling stations are surrounded by residences on 2 sides or more, there needs to be greater restriction to businesses in a residential area. They are pushing the limits as to what can be put in. Mr. Fleurent, Jr. is comfortable with what is before him except for that one piece, it needs more restrictions. To create any new business with 2 or more boundaries to RA, RB or RC, cannot exceed 90% of the useable area.

Mr. Hayward asked about the 50' setback.

Mr. Fleurent said he is only talking about new businesses. If it is already in place, they would be grandfathered.

Mr. Hayward said let's not use the word grandfathered. If in operation by Special Permit or prior to Zoning Bylaw. Mr. Hayward said the non-conforming use is separate.

Discussion ensued.

Mr. Fleurent said he does not want to see businesses get larger in a residential area. He would like to see a greater restriction on businesses in the center of residential areas. Mr. Fleurent is in full support of the bylaw as it stands today, but feels it needs to be more restrictive.

Mr. Lucas said he does not see this bylaw giving them any numbers or anything. It is a site plan review. The design is going to determine what he will get as far as spaces, display areas, etc. Mr. Lucas feels this gives the power to the Town as to what will be allowed in that use.

Mr. Hayward said there are two sections; first if you're constructing a new facility, you can't put a fill-in station in a residential zone. The second part of the bylaw talks about non-conforming uses going on today. 198-27 says that when the applicant goes before Board of Selectmen to modify existing operations, they have to file a site plan review with the Planning Board.

Ms. Cripps said there is a trigger that says if any shop expands, alters or intensifies its use, they would have to appear before the Planning Board.

Mr. Hayward said only because they would have to modify the required parking and that is the problem with these sites.

Mr. Fleurent, Jr. said he cannot support the bylaw the way it is written today as he feels there should be more restriction when adjacent or in a residential area.

Mr. Staffon said previous the Planning Board member had it correct, when they come in front of Selectmen for their license, they have to show a site plan review and he feels when they come in with a plan from a certified engineer, he feels the Planning Board will be reducing the size of businesses. It starts with us but falls on the Selectmen. Mr. Staffon said he is 99% for the Zoning Bylaw.

Discussion ensued.

Mr. Titan said that cuts both ways. You are there to give your opinions and that's where politics come into play. You have something in writing and he understands where Mr. Fleurent is coming from. It takes the personal out of it. It takes the arbitration out and you don't want it so restrictive you don't need a Board; you would leave yourself no room

Mr. Ouellette said he is living the situation and that is why he is here tonight. The issue is enforcement. He has a 50-car license and if he is going to stick 60 cars on lot, who is going to stop him. The police won't. He will do what he wants and he is not going to come before the Board for an additional license.

Mr. Hayward said the Town has a Zoning Enforcement Officer. It is hard to enforce something that grew. We need to have the plans on file then enforcement wouldn't be an issue in the future.

Discussion ensued.

Ms. Cripps said the intent of the bylaw is to address current issues and this will give them a formal process with recourse for any violations.

Mr. Fleurent, Jr. feels there is a difference between businesses in a residential district and it is easy for them to circumvent the bylaws. Mr. Fleurent feels the business don't care about the neighborhoods.

Mr. Lucas disagrees.

Discussion ensued.

Mr. Roth said this bylaw would make every auto and boat dealer not permitted as of right but by Special Permit. It would make it a Special Permit, which can be denied if it is not compatible with the neighborhood. The Special Permit gives Broad powers to deny based on use and compatibility or to approve it with 2/3 of the Board.

Mr. Fleurent, Jr. said he will not support this Bylaw the way it is unless there are more restrictions for business in a residential area. He feels it is like living in New Bedford.

Mr. Hayward asked him to give him the language that would accomplish this.

Mr. Coelho (concerned citizen) said he feels sorry for a person who has a complaint, who lives in the neighborhood, has been there 10 to 20 years. It is a small business and someone else moved in and they expanded. The only way to get things changed is have the whole neighborhood complain. There should be a way for someone to come down and enforce the rules. If a person has a complaint he feels they should be able to come to the Planning Board and it shouldn't take the whole neighborhood. You refer back to the permit and abide by that. He feels it is the most important Board for the expansion of the Town. He feels the Selectmen do not understand the system.

Mr. Hayward said it is a formal process.

Mr. Coelho said it gets frustrating to the people.

Mr. Hayward said they are not an enforcement agency and generally it falls on other departments.

Ms. Cripps said based on what Mr. Coelho was saying, she would hope that any resident who had an issue would come before them.

Discussion ensued.

Mr. Staffon made a motion to recommend zoning bylaw amendment with changes and was seconded by Kaisa Cripps.

Mr. Roth reviewed the proposed changes to the Bylaw.

Mr. Fleurent, Jr. said he would like to add a paragraph, E, that any of the uses that is boarded by 2 or more residential areas only 90% of the square footage be calculated in the use, which is non-negotiable for him.

Mr. Lucas said he can't support it.

Mr. Hayward said put it in writing and if they decide to amend it, they can do it at Town meeting. Feels sentence works better and read Section 198-24.

Discussion ensued.

Mr. Titan asked if they could continue to another meeting, have everyone organize their thoughts and have Mr. Fleurent put it on paper. It will give everyone an opportunity to think about it.

Ms. Cripps made a motion to continue the hearing to January 12, 2016 and was seconded by Mr. Lucas. The motion is granted 4-1.

Gary Staffon was opposed.

D. LONG RANGE PLANNING:

1. Master Plan Sub-committee Update – Rene Fleurent, Jr.

Mr. Fleurent, Jr. said the sub-committee is down to three members. There is a meeting tomorrow and they know what they want to present to Town meeting. They are looking for RFP and the present Master Plan and the deficiencies.

E. CORRESPONDENCE:

None.

F. OTHER BUSINESS:

1. CPC Update – Jeff Lucas

Mr. Lucas said they have received all of their applications for the coming funding season. Mr. Lucas reviewed each:

- Open Space Recreation – Buzzards Bay Coalition application, \$80,000, preservation of land;
- Recreation: Bike Path Committee - \$1,000, Bike racks;
- Community Housing – Two projects. First - Dana Court updated heating system - \$50,000 and the second - The housing component of the Master Plan - \$25,000
- Historic Preservation;
- High School – window completion - \$70,000;
- Library sidewalk restoration - \$175,000;
- Historic Commission – Academy Building – \$35,000;
- Library Two projects: First – next phase of restoration \$159,000 and the second digitizing Fairhaven Star Newspaper - \$30,707

Mr. Hayward asked if the library could fund any of it from their budget?

Mr. Lucas said they could ask.

Mr. Roth said the repair and maintenance of the building and the facility is the responsibility of the Town. The digitizing is not.

Ms. Cripps said that the Library is a non-profit and not a Town Department and does not have the funds for such major repairs or restoration.

Discussion ensued.

Mr. Titan asked what CPC was and Mr. Lucas gave an explanation.
Discussion ensued.

2. SRPEDD Commission Update – Rene Fleurent

None.

3. Any other Town business not reasonably anticipated 48 hours prior to the posting of this meeting.

Mr. Staffon made a motion to adjourn and was seconded by Mr. Fleurent, Jr. The meeting adjourned at 8:36 p.m.

Next meeting is Tuesday, January 12, 2016 at 6:30 p.m.

Respectfully Submitted,

Tracy A. White
Recording Secretary