

## Melissa Tryon

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**From:** Ethan Croce  
**Sent:** Thursday, May 08, 2014 12:00 PM  
**To:** Melissa Tryon; Amanda Stearns; Nathan Poore; Ellen Planer  
**Subject:** MRA Public hearing - May 6, 2014 Planning Board meeting - Village Park Special District

At its May 6, 2014 meeting, the Planning Board, acting as the Town's designated Municipal Reviewing Authority, held a public hearing on proposed amendments to the Zoning and Site Plan Review Ordinance relative to establishing a Village Park Special District.

### **The following public comment was received at the meeting:**

The Board referenced written public comments that were jointly submitted from Janice Beanne-Root, 6 Lunt Road, and John Reardon, 58 Depot Road. (See attached letter for those comments.)

There was no additional public comment received at the meeting.

### **Planning Board deliberation and vote:**

Jay Chace pointed out that the proposed ice rink facility is classified as an "Outdoor Recreation Facility" and is currently allowed as a conditional use in the VC1 district. The fact that the Town made a decision to classify this use as a conditional use, requiring both Planning Board and Board of Zoning Appeals review, speaks to the belief that these types of uses often have a greater impact on abutters. The Town contemplated a heightened level of review for this type of land use. To that end, he has a problem with this ordinance amendment which would eliminate both of those otherwise required levels of board review. He also has due process concerns with the ordinance proposal and wondered where concerned or aggrieved abutters would take an appeal. There is no process laid out for that. When a Board approves or denies a project there is a clearly articulated appeal process. He generally supports relaxing the identified VC1 ordinance standards, but is not supportive of eliminating Board review of the project.

Bernie Pender likes the project conceptually but thinks there should be some review process. He also commented that the plan doesn't show lighting levels.

Tom McKeon thinks that Board review is important, but also acknowledged that sometimes there are special circumstances that could warrant providing process flexibility where there are substantial public benefits.

Bill Benzing thinks the project is well thought out, but is concerned that the Council is short circuiting the adopted board processes. These processes are checks and balances for the citizens of Falmouth.

Jay Chace recalled that, with the advent of the VC districts, many design standards were imbedded in the Zoning Ordinance and are no longer as flexible or waivable as before, so that avenue of relief from the Board is no longer there.

Chris Hickey is concerned about setting a precedent for future developers to ask for relief from the Town's standards in this fashion. He thinks this project should be required to go through Site Plan Review.

Jay Chace stated that developers, abutters, and residents should have a clear expectation about process. He is worried that the Town is setting a precedent whereby certain projects are being picked to avoid the duly adopted review process and others are not. He believes Site Plan Review should be required.

Bill Benzing agreed with Jay Chace.

Bernie Pender recommended that Planning staff be required to review and issue an approval for the project.

Jay Chace thought that would be unfair to place staff in that position for a project of this magnitude. Staff can easily be put in an uncomfortable position where political pressure gets applied to them by abutters, the developer, other residents, etc. Quasi-judicial boards are immune from that political pressure.

Tom McKeon is concerned that the Town is going to end up with a zoning map that looks like a piece of pizza with small special zones scattered everywhere. He thinks the Council should not be providing special exceptions to every project that comes along. He does, however, appreciate this project's benefits and is fine, in this circumstance, to support the re-zoning with Bernie Pender's suggested condition for Planning staff review and approval, but if the Planning Board starts getting these special re-zonings on a regular basis he will be less inclined to support them.

Jay Chace moved to recommend that the Council approve the proposed ordinance amendment as written with the condition that the project be required to come before the Planning Board for Site Plan Review. The motion was seconded by Bill Benzing.

Tom McKeon and Bernie Pender said they were fine with supporting the ordinance as drafted with the condition that Planning staff review and approve the project.

The motion carried 3-2. (Pender; McKeon)

Regards,  
Ethan

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