

PLANNING BOARD  
Meeting Minutes  
Thursday, March 9, 2017  
Judge Welsh Room  
6:00 P.M.

**Members Present:** John Golden, Grace Ryder-O'Malley (arrived at 6:13 P.M.), Ryan Campbell Brandon Quesnell (arrived at 6:30 P.M.), Steven Baker and Dave Abramson.

**Members Absent:** None.

**Staff:** Gloria McPherson, Town Planner and Ellen C. Battaglini, Permit Coordinator.

Chair John Golden called the Meeting to order at 6:13 P.M.

**1. Work Session:** Discussion of presentations for Town Meeting articles. Ms. McPherson said that the Board would be holding a Public Hearing on March 23<sup>rd</sup> on all land use related to the warrant articles where the Board will vote to recommend or not recommend the articles. On Saturday, March 25<sup>th</sup>, there will be a Town Forum on all warrant articles. She said that the Board had discussed having a meeting exclusively on the Inclusionary Zoning warrant article before March 23<sup>rd</sup>. The Board briefly discussed the idea and decided to schedule a meeting in regard to the article on March 30<sup>th</sup> at 6:30 P.M.

**Minutes of April 23<sup>rd</sup>, August 27<sup>th</sup> and October 22, 2015, January 14<sup>th</sup>, March 24<sup>th</sup>, April 28<sup>th</sup>, June 9<sup>th</sup>, December 8, 2016 and January 31, February 23 and February 28, 2017 meetings.**

**Minutes: January 31, 2017: *There was a motion by Grace Ryder-O'Malley to approve the minutes as written. Steven Baker seconded. VOTE: 4-0-0.***

**February 23, 2017: *There was a motion by Grace Ryder-O'Malley to approve the minutes as amended. Steven Baker seconded. VOTE: 4-0-0.***

**Pending Decision:**

**Case #FY17-13 (Grace)**

Application by **William N. Rogers, II**, on behalf of **Elizabeth S. Athineos**, requesting a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws, to construct a second floor addition and install a retaining wall on a commercial property with a curb cut greater than 25% of its existing street frontage located at **63 Shank Painter Road**.

Ms. Ryder-O'Malley had amended the decision, which was read at the last meeting.

***There was a motion by Grace Ryder-O'Malley to approve the decision and findings of the Planning Board in Case #FY17-13 as written, Steven Baker seconded. VOTE: 5-0-0.***

Chair John Golden postponed the Work Session at 6:30 P.M. and called the Public Hearing to order at 6:30 P.M.

**2. Public Comments:** None.

### 3. Public Hearings:

a) **Case #FY17-14** (continued from the meeting of February 23<sup>rd</sup>)

Application by **William N. Rogers, II, P.E. & P.L.S.**, on behalf of **Milan Realty, LLC**, requesting a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws, to construct a second floor addition for employee housing on a commercial property with a curb cut greater than 25% of its existing street frontage located at **130 Bradford Street**. Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case.

William N. Rogers, II, P.E. & P.L.S., a local civil engineer, and Ken Pandya, the owner of the property, appeared to discuss the application. Mr. Rogers reviewed the changes on the site plan per the requests of the Board. The Board questioned Mr. Rogers about the revisions.

**Public Comments:** Rik Ahlberg had a question about the availability of the amended site plan. He offered his help in staging the bike racks on the site, as he is a member of the Town's Bicycle Committee.

The Board continued to discuss the amended site plan, including the proposed sidewalks on the site. Rich Waldo, the Dept. of Public Works Director, joined the discussion. Ms. McPherson explained that the projects occurring on three corners of the intersection of Bradford and Standish Street would all be making public improvements within the public way using private funds in order to make their lots compliant with the Zoning By-Laws. The Board would be asking the applicants to put money for the sidewalks in escrow. She said that given that, the Board would need a firm number of the cost of those sidewalks from Mr. Waldo in order to finalize its conditions for the project. Mr. Waldo will get a cost estimate within a week.

Mr. Rogers said he would submit an amended site plan. Ms. McPherson said that a cost estimate would be generated by Mr. Waldo and reviewed the requested plan adjustments, such as showing bike racks in their actual locations, curb stops for bikes and wrapping the curb to coordinate with the project at 132 Bradford Street, removing the overhead electric wires from the plan and removing the telephone booth or writing a note stating that it would be removed. The Board continued the case.

***There was a motion by Steven Baker to continue Case #FY17-14 to the March 23, 2017 Public Hearing at 6:30 P.M., Dave Abramson seconded. VOTE: 4-0-0.***

b) **Case #FY17-17**

Application by **TMC New England, LLC c/o T.M. Crowley & Associates**, on behalf of **Riley Brothers Realty, LLC**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (4), Site Plan Review by Special Permit, of the Zoning By-Laws for exterior building, sidewalk, landscaping and parking improvements on a commercial property with a curb cut greater than 25% of its existing street frontage located at **132 Bradford Street**. John Golden, Grace Ryder-O'Malley, Ryan Campbell, Steven Baker and Brandon Quesnell sat on the case.

Attorney E. James Veara and Don Caron, both representing the applicant TMC New England, LLC, Bryce Hillman, an architect, and Brian Dundon, the site civil engineer, appeared to present the application. Attorney Veara stated that the applicant seeks to change the use of a portion of the property located at 132 Bradford Street. He gave some preliminary background and described the scope of the area on the property that the applicant would be leasing. The 11 parking spaces depicted on the plan are on the Standish Street side of the building only. Patrons of CVS will not be encouraged to use the commercial parking lot located on the property.

Attorney Veara argued that pursuant to Article 4, section 4035, the plan is in accordance with the Provincetown Zoning By-Laws, as the building is lawfully pre-existing, non-conforming and the proposed use is allowed in the zoning district in which it is located and is consistent with the goals of the Local Comprehensive Plan. Zoning relief, however, is required under the Formula Business By-Law. He said that the project has received a Certificate of Appropriateness from the Historic District Commission, as the project will maintain the historic character of the building. In terms of the LCP, he explained how the project is consistent with Chapter 4, Section 4.2, Goals and Policies, Goal 1, Policy B and Goal 2, Policy J and P. In addition, it is consistent with Chapter 5, Section 5.2, Goals and Policies, Goal 3. He explained how several of the criteria pursuant to Article 4, s. 4163, Residential Design Standards, would not be applicable to the project. He indicated how deliveries and trash pick-ups would be handled on the site, with vehicles accessing those areas through the parking lot on the site, thus not creating any congestion in the Standish Street neighborhood. He stated that stormwater will be contained on the site and a stormwater report had been submitted to support that contention. There will be no new construction, thus utility lines will remain as is and that all surfaces of parking areas will be suitable for the purpose planned.

Attorney Veara then addressed the criteria of Article 4, s. 4053, Commercial Design Standards. He said that in regard to the traffic impact, the area was heavily congested and highly traveled because of people accessing the public parking lot on the property and other businesses in the area. In addition, vehicles travel this area on their way to other public parking areas. There is a high traffic volume in the summer season, but less in the winter months. The traffic impact requirement in the Zoning By-Laws, he asserted, has a greater importance for new construction. He argued that a traffic study for the site is not necessary, as it would give a false impression of the impact of the project on traffic. Trip generation data is more relevant and trips to the site would not necessarily be increased. CVS would not be a trip generator in and of itself. He also argued that a traffic study would not be necessary in this instance because a general retail use generated more traffic than a pharmacy use without a drive-through window. According to the traffic research data, other than weekday mornings, traffic for retail use is higher than for a pharmacy without a drive-through window. He asserted that no further hazard or congestion would be created as a result of this project. There will not be a dramatic increase in traffic in this area because it is already heavily congested section of Bradford Street in the summer.

He requested a waiver from s. 4053 1a, which states that curb cuts shall be limited to two per business (clearly marked 'entrance' and 'exit') limited to 18' in width each. He said the project would not have an impact on curb cuts, because none would be added or altered.

He reviewed the criteria of s. 5331, Development Impact Statements, explaining the probable impacts or effects of the proposed project on the neighborhood and the Town in general and which criteria was not relevant to the project.

The Board questioned Attorney Veara, including about the feasibility of large delivery and garbage trucks being able to turn around in the designated delivery area on the site and what the potential parking needs for CVS employees would be. The Board asked for comments from Police or Fire regarding the project. Staff has requested comment, but has not yet received any, except from the Police Chief looking for a traffic impact study.

Mr. Dundon reviewed the site improvements, including the proposed location of parking and the sidewalks, crosswalks, drainage and septic elements and the increase in landscaped areas, the loading and delivery zones, proposed lighting and explained other site improvements. The Board questioned Mr. Dundon.

**Public Comment:** Clarence Walker, Marcene Marcoux, Mary Jo Avellar, Louise Venden, Patrick Patrick, Jackie Kelly, Jon Sinaiko, Ray Riglioso spoke in opposition to the project. Rik Ahlberg had concerns about the effect the project would have on vehicular and pedestrian traffic and noted that the Cape Cod Commission had done a traffic study of the area. Rachel White had asked a question about whether alternative projects had been considered for the site. Jackie Kelly said that other options had been considered. There were 3 letters in opposition and 1 letter of concern regarding the project in the file.

The Board discussed the project and its concerns, including whether a traffic study should be required, the location of recycling and trash bins on the site, screening for the dumpster, the location of bike racks, requiring smell and noise blockers and restricting hours for the use of the trash area on the site plan and placing a shopping cart corral on site. The applicant agreed to make the sidewalks concrete and not asphalt as proposed. The Board discussed asking for input from the Cape Cod Commission. Ms. McPherson reviewed staff recommendations regarding a traffic study and other site plan details. Attorney Veara agreed that the applicant would submit a traffic study. He requested a continuance to the April 27, 2017 Public Hearing.

*There was a motion by Grace Ryder-O'Malley to continue Case #FY 17-17 until the April 27, 2017 Public Hearing at 6:30 P.M. Ryan Campbell seconded the motion. VOTE: 5-0-0.*

c) **Case #FY17-18**

Application by **Chad, LLC** and **Villa, LLC** requesting a Site Plan Review pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws to amend a previously-approved site plan for the property located at **336R Commercial Street**. There was a request from the applicant to continue to the March 23, 2017 Public Hearing.

d) **PLN-17-20**

Application by **Christopher D. Wise**, on behalf of **Coastal Acres Properties, LLC**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (5), Site Plan Review by Special Permit, of the Zoning By-Laws for the upgrading of an electrical system, including the installation of meter pedestals and electric packs, and the extension of a line of

service to meter sites, which requires trenching and earth moving of more than 750 cu. yds. at the property located at **76R Bayberry Avenue**.

Chris Wise appeared to present the application. He explained that the plans he had submitted would be re-engineered and stamped and then re-submitted to the Board. The Board reviewed the items that Mr. Wise indicated would be provided at the next hearing. He reviewed the project and asked the Board what other information about the project it would like. He stated that the project involves a betterment of the site and the installation of underground water, sewer and electric lines within the existing roadways, and within the previously-altered campsites on the property. No trees, saplings or shrubs will be altered by the proposed project.

The Board questioned Mr. Wise.

**Public Comment:** Mike Minori, an abutter, asked that the Board require a sound study. David Wilson, an abutter, expressed concerns about the potential for a mobile home park to be installed on the site.

Ms. McPherson said she would do a zoning analysis of the site and its use. The Board asked if all utility lines be placed underground. Mr. Wise will do a cost analysis of the request, as he thinks it would be prohibitive. It was requested that the poles being removed and labeling which are to remain on the revised site plan. The Board requested that all lighting must be dark sky compliant and that Mr. Wise lay the groundwork for future car-charging stations.

Mr. Wise requested to continue until the March 23, 2017 Public Hearing. The Board requested lighting specifications and noting all lighting poles on the plan, the cost analysis for putting the utilities underground and indicating electrical charging conduits for future car-charging stations. ***There was a motion by Grace Ryder-O'Malley to continue PLN 17-20 until the March 23, 2017 Public Hearing at 6:30 P.M. Ryan Campbell seconded. VOTE: 5-0-0.***

e) **PLN-17-21**

Application by **Scott N. Adams, Advanced Engineering Group, P.C.**, on behalf of **7-Eleven, Inc.**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (5), Site Plan Review by Special Permit, of the Zoning By-Laws for exterior improvements on a commercial property with a curb cut greater than 25% of its existing street frontage, including realigning an existing curb gutter line, replacement of a bike rack, re-striping an existing parking lot and the installation of a 4' wide sidewalk with granite curbing, a crosswalk striping across curb cuts, landscape plantings, composite traffic dividers, two additional light poles, two street trees and an additional handicap ramp within a proposed sidewalk at the property located at **137 Bradford Street**. There was a request from the applicant to postpone the matter until the March 23, 2017 Public Hearing.

***There was a motion by Grace Ryder-O'Malley to grant the request to postpone until the March 23, 2017 Public Hearing at 6:30 P.M. Ryan Campbell seconded. Vote; 5-0-0.***

Chair John Golden adjourned the Public Hearing and reconvened the Work Session at 10:20 P.M.

4. **Work Session**

a) **Case #FY17-22**

Application by **Mark Lagere**, on behalf of **Marolima Properties, LLC**, for endorsement of a plan believed not to require approval (ANR) to create four lots, three buildable and one non-buildable, where there was only one lot on the property located at **829 Commercial Street (Map & Parcel 19-1-36-0)**.

Kiernan Healey, a land surveyor with BSC Group, Inc., and Mark Legere, the property owner, appeared to present the application. Mr. Healey explained the proposed site plan.

***Grace Ryder-O'Malley moved to endorse a plan believed not to require approval (ANR) to create four lots, three buildable and one non-buildable, where there was only one lot on the property located at 829 Commercial Street (Map & Parcel 19-1-36-0). Steven Baker seconded. VOTE: 5-0-0.***

b) Pending Decision:

i) **Cases #FY17-06 & #FY17-07: (Ryan)**

Application by **Coastal Custom Builders** requesting Site Plan Approval pursuant to Article 2, Section 2320, **High Elevation Protection District (B)**, and a Special Permit pursuant to Article 4, Section 4015, **Site Plan Review by Special Permit**, of the Zoning By-Laws, for the demolition of an existing single-family house and garage and the construction of a new single family residence with a carport, pool, landscaping, new septic system and associated site work, including earth moving of more than 750 cu. yds. at the property located at **226B Bradford Street**.

Mr. Campbell read the draft decision. ***A motion was made by Ryan Campbell to approve the decision as amended. Grace Ryder-O'Malley seconded. VOTE: 5-0-0.***

c) **Discussion with Chris Wise regarding tree removal at 350 Bradford Street:** Dave Abramson recused himself from the discussion. Chris Wise appeared to discuss the issue and submitted a new site plan showing a new retaining wall to replace an old timber wall on the east side of the property. He reviewed the site plan and explained how the retaining wall would be installed. The Board questioned Mr. Wise and discussed whether to handle the issue administratively or conduct a full hearing on the revision. Mr. Wise said that he has spoken to all of the abutters about the retaining wall. He said he would like to meet with other abutters in the next couple of weeks and then meet with Board to approve a new vegetative replacement plan, based upon Gordon Peabody's, of Safe Harbor Environmental, and Phil Cheney's, the project's landscaper, recommendations. The Board questioned Mr. Wise about the trees that were removed. The Board would like to notice the public about the proposed amendment of site plan. The Board requested a detail of the wall, materials to be used and the height of the wall.

d) **Annual Board Organization:** Postponed.

- i) Election of Chair
- ii) Election of Vice Chair

e) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan:** Postponed.

f) **Discussion of planting list** (placeholder)

g) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder)

h) **Any other business that may properly come before the Board:**

There was a motion by Brandon Quesnell to adjourn the Planning Board meeting at 11:30 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2017  
John Golden, Chair