

PLANNING BOARD
Meeting Minutes
Thursday, June 8, 2017
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson.

Members Absent: Ryan Campbell (excused).

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

Chair John Golden called the Meeting to order at 6:31 P.M.

1. **Public Comments:** None.

2. **Public Hearings:**

a) **Article 1: Petitioned Article by Barbara Rushmore and Others.** To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise four parcels of land located at 132, 134, and 136 Bradford Street and 10 Conwell Street, including the buildings and parking lot located on said parcels, for general municipal purposes including but not limited to the site for a new police station; and further identified as Parcel Nos. 12-1-77-0 consisting of 30,710 square feet, 12-1-77-A consisting of 62,160 square feet, 12-1-78-0 consisting of 7,520 square feet; and 12-1-82-0 consisting of 92,565 square feet; and further to raise and appropriate, transfer from available funds, or borrow a sum of money, to be expended under the direction of the Town Manager and the DPW Director, for said acquisition and for the design and construction of a new police station on said parcels, including costs incidental and related thereto; provided that said appropriation shall be contingent on a Proposition 2 and 1/2 debt exclusion ballot question; or to take any other action relative thereto. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson considered the Article.

Gloria McPherson read an email from the proponent of the Article, Barbara Rushmore. Mike Riley, an owner of the property in question, spoke in opposition to the Article.

There was a motion by Grace Ryder-O'Malley to not recommend Article 1. Brandon Quesnell seconded. VOTE: 5-0-0.

b) **Case #FY17-17** (continued from the meeting of May 25th)
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, Steven Baker, Brandon Quesnell and Dave Abramson (alternate) sat on the case.

Attorney E. James Veara, representing TMC New England, LLC, Brian Dundon, a site civil engineer with R.J. O'Connell & Associates, Inc., Civil Engineers, Surveyors & Land Planners and Colleen Medeiros, of McMahan Associates, author of the traffic study for the site, appeared to discuss the application. Mr. Dundon had submitted a letter addressing the Board's concerns and he reviewed the requested revisions to the site plan.

John Krajovic spoke of his concerns about the street trees proposed by the applicant and the parking issue. He suggested that the Board consider a mitigation fund to develop a master transportation plan for the Town. There were 2 letters in opposition to the application.

The Board questioned Attorney Veara and Mr. Dundon. Ms. McPherson reviewed staff recommendations for conditions. The Board requested several more conditions.

There was a motion by Dave Abramson to find that under Article 5, Section 5331 that the social, economic or other benefits of the proposal for the Town or neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation. Brandon Quesnell seconded. VOTE: 4-1-0 (Steven Baker opposed).

The Board considered the requested waivers.

There was a motion by Dave Abramson to grant the waivers as requested in a letter to the Planning Board, dated May 25, 2017, from Attorney E. James Veara. Brandon Quesnell seconded. VOTE: 4-1-0 (Steven Baker opposed).

There was a motion by Dave Abramson to grant 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 with the 20 conditions as read by staff. Brandon Quesnell seconded. VOTE: 4-1-0 (Steven Baker opposed). Dave Abramson will write the decision.

f) **PLN 17-33** (continued from the meeting of May 25th)

Application by **Mass Organic Therapy, Inc.**, on behalf of **Fifth Gear Realty Trust, Karen R. DePalma, Trustee**, requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, D7, Medical Marijuana Treatment Center, of the Zoning By-Laws to operate a medical marijuana treatment center at the property located at **2 Harry Kemp Way, Unit 2**.

g) **PLN 17-34** (continued from the meeting of May 25th)

Application by **Mass Organic Therapy, Inc.**, on behalf of **Fifth Gear Realty Trust, Karen R. DePalma, Trustee**, for Site Plan Approval pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of the structure from a professional office to a medical marijuana treatment center and to make associated site improvements at the property located at **2 Harry Kemp Way**. There was a request from the applicant to continue PLN 17-33 and 17-34 until the June 22, 2017 Public Hearing at 6:30 P.M.

There was a motion by Steven Baker to approve the request to continue PLN 17-33 & 17-34 to the June 22, 2017 Public Hearing at 6:30 P.M. Grace Ryder-O'Malley seconded. VOTE: 5-0-0.

e) **PLN 17-32** (*postponed from the meeting of May 25th*)

Application by **MEILI, LLC**, on behalf of **Edward Roach**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015 a (1), Site Plan Review by Special Permit, the Zoning By-Laws to renovate and raise an existing multi-family structure, including adding a dwelling unit, and an existing cottage and to make associated site improvements on the property located at **58-60 Bradford Street**. There was a request from the applicant to withdraw PLN 17-32 without prejudice. *There was a motion by Grace Ryder-O'Malley to grant the request to withdraw PLN 17-32 without prejudice. Steven Baker seconded. VOTE: 5-0-0.*

c) **PLN-17-20** (*continued from the meeting of May 25th*)

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**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case.

Attorney Lester J. Murphy, representing the applicant, and Chris Wise, one of the owners of the property, appeared to discuss the project. Attorney Murphy reviewed the pending status of the project with the Conservation Commission. He reviewed the concerns of the Board voiced at the last Board hearing. The issues include the location of 23 campsites within the 50' buffer zone and the concern about the discharge of gray water, given the proposal to install stainless steel sinks at those sites and the proposed location of the underground utility conduits in relation to each other and their trenches to the trees above ground. He pointed out the proposed dark sky compliant light fixtures that were submitted. All exterior lighting fixtures will be replaced. In regard to the Board's request to put the higher voltage electrical utilities underground, Attorney Murphy reviewed a letter from Roger Ling, of Ling Electric, explaining why, from both environmental and public safety standpoints, it would be more prudent to leave this electrical service above ground. He reviewed the letter's recommendations.

There were no public comments or new letters in the file. Tim Famulare, the Conservation Agent, commented that the Conservation Commission continued its discussion of the application until its next meeting and was open to a joint meeting with the Board.

The Board questioned Attorney Murphy and Mr. Wise, who both underscored Mr. Ling's recommendations, regarding the existing and proposed electrical situation. The Board requested that the pinch-points, which were where the 10' separation between water and sewer lines would not be possible, be delineated on the site plan, in addition to marking the trees that would need to be removed for whatever reason. In addition, the Board also requested feedback from AECOM in light of the additional material submitted and as it relates to AECOM's letter of concerns, dated May 10, 2017. Ms. McPherson will reach out to AECOM for feedback. Attorney Murphy

reiterated the Board's requests as including more information about the distance between trenches in the identified pinch-point areas and about the high-voltage electrical issue, as well as the identification of trees that would have to be removed on the site.

There was a motion by Grace Ryder-O'Malley to continue PLN 17-20 to the Public Hearing of June 22, 2017 at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.

d) **PLN 17-30** (continued from the meeting of May 11th)

Application by **E. James Veara, Esq.**, on behalf of **Lori E. Riley** and **Jeffrey A. Medeiros**, for Site Plan Approval pursuant to Article 2, Districts and District Regulations, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws to construct a new dwelling at the property located at **24 Ship's Way Road**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case.

Attorney E. James Veara, Jeffrey Medeiros and Lori Riley appeared to discuss the application. He reviewed the Board's requests from the last meeting on the application, including the submission of a lighting plan with cut sheets of dark sky compliant fixtures and an updated landscaping plan, showing the oak tree in the proposed parking area. He indicated that an alteration of the parking area was devised, showing a layout that straddles the tree and a proposed landscape wall to protect it. He briefly reviewed the project, which requires considerable site disturbance, and the relief that was needed.

There was no public comment and no new letters in the file.

Ms. McPherson reviewed the standards for site plan review of proposed projects in the high elevation protection district.

The Board questioned Attorney Veara and discussed the project with the applicants. There was a concern from the Board about the viability of the site for the project as proposed. Attorney Veara argued that the Board could only impose reasonable conditions on the project. The Board was particularly concerned about the proposed location of the house on the site and requested information on how a retaining wall would be screened and confirmation from Town staff that no more than 2000 sq. ft. of vegetation would be clear-stripped from the site.

There was a motion by Grace Ryder-O'Malley to continue PLN 17-30 to the Public Hearing of July 13, 2017 at 6:30 P.M., Brandon Quesnell seconded. VOTE: 5-0-0.

h) **PLN 17-35**

Application by **Heal, Inc.**, on behalf of **94 Harry Kemp Way Revocable Trust, William Gately, Trustee**, requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, D7, Medical Marijuana Treatment Center, to operate a medical marijuana treatment center at the property located at **94 Harry Kemp Way**.

i) **PLN 17-36**

Application by **Heal, Inc.**, on behalf of **94 Harry Kemp Way Revocable Trust, William Gately, Trustee**, requesting Site Plan Approval pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-laws for a change in use from

a funeral home to a medical marijuana treatment center at the property located at **94 Harry Kemp Way** with waivers from Article 4, Sections 4053(1)(a), curb cut width and number per business, 4053(2)(d), Screening of loading areas, 4163(2), Curb radii, Minimum width of traveled surface area, 4600, Street tree and Article 5, Section 5331, Submission of Development Impact Statement. The Board heard both cases together. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on both cases.

Attorneys Katherine Adams and Robin B. Reid, Alexander Oliphant, Trish Faass and Gary Einsidler, owners of Heal, Inc., Brian Anderson, of ADP Architecture, Brad Malo, a civil engineer at Coastal Engineering, Tom Walsh, of Netwatch USA, security consultants, Randy Hart, of VHB, a traffic engineer, Phil Cheney, a landscape architect, and William Gately, Heal's landlord and owner of the funeral home on the site, appeared to present the application. Attorney Adams explained that her client's previous application for a Special Permit was withdrawn because of a change in the location of the proposed medical marijuana treatment center on the site. She reviewed the new project, which has been designed to take the Board's and the abutter's concerns about its previous application into consideration. She said that the proposal was to install the center in the funeral home building and argued that it was a far superior plan. She reviewed the project and the site plan and underscored its benefits to the Town.

Mr. Hart reviewed the expanded traffic study. Attorney Adams briefly addressed the security issue and Mr. Walsh the security plan for the site. Attorney Adams said that the applicant has provided the Chief of Police, Jim Golden, with Heal, Inc.'s policies, training manuals, job descriptions and security protocols regarding the proposal in response to his letter of concerns. The Chief wrote that he thought this location would serve adequately as a medical marijuana treatment center and would be a medical asset to the community.

Attorney Robin B. Reid reviewed the six waiver requests. Attorney Adams said that the applicant has worked with the immediate abutters to accommodate their concerns with this revised proposal, including with Attorney David Reid, who represents several abutters. He was provided with the application and exhibits that were submitted to the Board and an offer to meet with his clients. She said that some of the changes from the previous application include the installation of buffer plantings along Howland Street, the elimination of the northern curb cut for Heal, Inc.'s operation, a reduction in existing and proposed light sources and the elimination of the issue of overflow parking at the funeral home issue that would have occurred on occasion. She argued that these changes decrease the proposal's potential impact on the neighborhood while allowing the applicant to provide access to medical-grade cannabis in a safe environment.

Rachel White spoke of her concern regarding losing the funeral home and Stephanie Page, Attorney David Reid, representing several Howland Street abutters, Steve Moscovitz, Attorney Christopher J. Snow, Ardis Markarian, Brian Melanson, Burce Mason, Maryjane Canavan and John Medeiros spoke in opposition to the project. There was a petition signed by 94 people and 2 letters in opposition and 4 letters in support of the application.

Attorney Adams clarified some issues raised by the public. The Board questioned Attorneys Adams and Robin B. Reid. The Board had several requests, including that the applicant explore the possibility of planting street trees in the gravel, public right-of-way on Harry Kemp Way and

that the applicant submit a landscape plan showing proposed trees in that area, approach the property owner to consider closing the north entrance to the site to address the safety issue regarding cars coming off the highway at high rates of speed and that a parking space for the one-bedroom apartment in the building be delineated on the plan.

There was a motion by Steven Baker to continue PLN 17-35 and PLN 17-36 to the June 22, 2017 Public Hearing at 6:30 P.M. Grace Ryder-O'Malley seconded. VOTE: 5-0-0.

3) Work Session:

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

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

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

d) **Minutes of April 23rd, August 27th and October 22, 2015, January 14th, March 24th, April 28th, June 9th, December 8, 2016 and May 25, 2017.**

May 25, 2017: ***There was a motion by Steven Baker to approve the minutes as amended. Dave Abramson seconded. VOTE: 5-0-0.***

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

There was a motion by Dave Abramson to adjourn the Planning Board meeting at 10:45 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2017
John Golden, Chair