

PLANNING BOARD
Meeting Minutes
Thursday, June 25, 2015
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Grace Ryder-O'Malley, Brandon Quesnell, Ryan Campbell, James Woods and Mark Weinress (left at 7:40 P.M.).

Members Absent: None.

Staff: None.

Others: Town Counsel Ilana Quirk.

Acting Chair John Golden called the meeting to order at 6:30 P.M.

Meeting Agenda:

1. **Public Comments:**
None.

2. **Public Hearings:**

a) **Case #FY15-20** (*continued from June 11, 2015*)

Application by Elizabeth Athineos dba Bike Shack requesting Site Plan Approval pursuant to Article 4, Section 4015(a)(4), Site Plan Review by Special Permit, to modify an approved site plan (FY14-09) for a curb cut that is greater than 25% of the parcels frontage at the property located at **63 Shank Painter Road.**

The Department of Public Works Director Rich Waldo appeared and had submitted a letter to the Board regarding this matter. He reviewed the issues of concern to him, including high ground water issues that impact the utilities on Shank Painter Road. He was worried about the direction of the project and the fact that there was not enough understanding by the Board about what was under the ground that could potentially be impacted by what was above the ground. In this location, the placement of the planter beds could impact an underground utility in the area, namely a 60-year-old asbestos concrete water main. He said that the water main was only about 3.5' under the road's surface because of the high ground water and was very susceptible to soil and water conditions. Plant roots could potentially infiltrate the seams of the main, rupture the pipe and cause damage. He would like the Board not to approve the planting of any trees in this area. He recommended that only low root growth shrubbery be planted in the area. He suggested adopting a policy, in consultation with business owners in the area, the Planning Board, the Town Planner and the DPW, in regard to the planting of trees in order to guide the Board when reviewing site plans. He asked that the Board take this information into consideration when reviewing this matter.

The Board questioned Mr. Waldo. The Board said that there would be a safety concern if low shrubbery bushes were planted. The Board discussed the matter. Acting Town

Manager David Gardner suggested that the Board might want to re-evaluate the initial conditions that were applied to the property, considering the issues that have arisen since the site plan was approved, a year and a half ago. He reviewed what he saw as the concerns regarding the existing site conditions at the property, including the fact that the lot was irregularly shaped. One concern was the Board's wish to install a landscape buffer and to define a curb cut. Trying to apply these standards to this lot, given its shape, the location of the structure on the lot and the necessity of providing parking for customers, have proven problematic for the property/business owner. The Board questioned Mr. Gardner and discussed the issue.

Mr. Waldo said the DPW would be willing to accept the location of the first bed, even though it is located in the Town's right of way, however if it were ever to become damaged, it could not be rebuilt in that location. Mr. Gardner said that if the Board's current condition regarding the first bed were to stand, then the property owner would have to apply to the Board of Selectmen to obtain a licensing agreement, which could then have maintenance conditions and planting requirements associated with it and could include a condition that if at any time the property was being re-developed, the bed would have to be removed and the sign would have to be relocated.

There was a motion by James Woods to deny the requests for a different sign and to install a walkway, and to grant the requests to delete the requirements to plant street trees and to build a second bed on an approved site plan (FY14-09) for a curb cut that is greater than 25% of the parcels frontage at the property located at 63 Shank Painter Road. Ryan Campbell seconded. VOTE: 5-0-0. Attorney Ilana M. Quirk will write the decision.

Mr. Gardner clarified with the Board that should the existing sign remain, it would have to be included in the licensing agreement with the BOS and would be subject to the same condition as the first bed, namely that if damaged, or if the property is redeveloped, it could not be replaced.

The Public Hearing portion of the meeting was adjourned at 7:43 P.M.

3. Work Session: The Work Session was called to order at 7:43 P.M.

- a) Workshop with Ilana Quirk of Kopelman and Paige with topics to include:
 - i. Role and responsibilities of Planning Boards;
 - ii. Running an effective meeting; and
 - iii. Writing legally defensible decisions.

Attorney Quirk reviewed several topics, including writing defensible decisions, avoiding litigation, communicating with Town Counsel, handling a new lawsuit, open meeting law issues, conflicts of interest and information about the public records made or received by governmental bodies. She also gave the Board a checklist of constructive grant deadlines.

- b) Decision for Case #FY15-16
Application by William N. Rogers II, PE & PLS on behalf of Demetrios Daphnis requesting Site Plan Approval pursuant to Article 4, Section 4015(a)(1)(5), Site Plan

Review by Special Permit, of the Provincetown Zoning Bylaw, to construct 4 structures containing 5 dwelling units and perform associated site work resulting in the moving of more than 750 cubic yards of earth at the property located at 67 Harry Kemp Way. Brandon Quesnell volunteered to write the decision.

c) Minutes of April 23, May 14, May 28 and June 11, 2015 meetings. The minutes were not ready for approval.

d) Information on Curb Cuts for future discussion: Grace Ryder-O'Malley explained that the Board had discussed taking over this function and there was a question about the cost to the applicant. She said that the cost would be the same, \$200, as currently charged to applicants if the Board were to hear those requests.

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

There was a motion by Ryan Campbell to adjourn the Planning Board meeting at 9:15 P.M.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2015
John Golden, Chair