

PLANNING BOARD
Meeting Minutes
Thursday, February 8, 2018
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Grace Ryder-O'Malley (left at 10:30 P.M.), Steven Baker, Brandon Quesnell (left at 10:30 P.M.), David Abramson, Ryan Campbell (Alternate) and Albert Carey (Alternate).

Members Absent: None.

Staff: David Gardner (Assistant Town Manager) and Ellen C. Battaglini (Permit Coordinator).

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

1. Public Comments:

None.

2. Public Hearings

a) **PLN 18-13** (*continued from the meeting of January 11th*)

Application by **Kieran J. Healy**, on behalf of **Marolima East, LLC**, requesting Site Plan Review by Special Permit pursuant to Article 2, Districts and District Regulations, Section 2320 (A), High Elevation Protection District, and Article 4, Special Regulations, Section 4015 a. (4), Site Plan Review by Special Permit, of the Zoning By-Laws for new construction involving the movement of more than 750 cu. yds. of earth on the properties located at **806 & 820 Commercial Street** with waivers from Article 4, Section 4028, f. and l. Grace Ryder-O'Malley invoked the Mullin Rule. John Golden, Grace Ryder-O'Malley, Steven Baker, Ryan Campbell and Dave Abramson sat on the case.

Presentation: Kieran Healy, a land surveyor with BSC Group, Mark Legere, the property owner, and Attorney Alan Lipkind, representing Marolima East, LLC, appeared to discuss the application. Mr. Healy reviewed the revised site plan that had been submitted to the Board. Located on the revised plan are trees on the site measuring greater than 10" dbh within the work area and within 10' of the work area and the removal of the structures proposed at 824 & 828 Commercial Street and from the application, as requested by the Board. Also submitted were two landscape plans for 806 and 820 Commercial Street, showing a work limit line on 824 & 828. He said that the Board of Health and the Conservation Commission have approved the proposals on 806 & 820. A staging area will be created on the properties at 824 & 828 where construction equipment and materials will be stored and will allow abutter access to the driveway during the evening hours. Some trenching for waterlines during the day will be necessary and may render the driveway impassable for abutters for small periods of time, but during the evening the driveway will be passable. Mr. Healy said that after recalculation as a result of revisions to the project, a total of 249 cu. yds. of soil, for grading purposes, will be moved on the site above the 40' contour line. He noted that the lot on 806 is not in the high elevation district. Adequate drainage on the sites will be provided by the installation of dry wells for runoff. All downspouts will empty into dry wells.

David Gardner reviewed his staff report about the project, including findings on how it was subject to Article 4, sections 4015 and 4180 of the Zoning By-Laws, proposing a condition related to the payment in lieu pursuant to the latter. Other planning related issues, such as the driveway access easement and the pedestrian access easement, were also examined. Another finding in the report proposed that the applicant ask for a waiver from the minimum width of the driveway, Article 4, s. 4163 3., as the planned widening in the northwest corner of the property would have an effect on the abutting wetland resource and change the character of the neighborhood.

Attorney Lipkind reviewed his letter written to the Board with his interpretation of the Zoning By-Laws as they related to the project and addressed the issue of the easement/footpath that traverses the property, disputing the abutters' rights to use it. He asserted his client's right to relocate the easement if necessary and that the issue of its use should be adjudicated in a court of law and not at a Planning Board hearing. Mr. Gardner agreed that the pedestrian access easement and the legality of its use was not within the purview of the Board. The easement was discussed. The Board requested that the applicant delineate the easement on the site plan and that the applicant clarify how the development would alter the path if the Board decides that its use by abutters should be maintained. Mr. Gardner recommended that the Board include a condition regarding the easement if it decided that it should be accommodated.

Public Comment: Anne Hulick, Mary Ellen Hobson, Mary Ellen Dwyer, all abutters, had concerns about the project, Sherry Dranch, on behalf of the Provincetown Conservation Trust, spoke in opposition to the project. There were 6 letters, 3 from previous speakers, 2 from abutters in opposition and 1 from an abutter with concerns.

Board Discussion: The Board questioned Mr. Healy, Mr. Legere and Attorney Lipkind, including about the adequacy of the driveway for fire truck turn-around purposes, maintaining abutter access to the roadway during construction and the location of the hydrant on the site and the suggestion that the applicant may want to plan ahead for the potential for sewer service to become available in the area by installing a stub connection and whether utilities could be placed underground. The Board requested that the applicant indicate the location of the permanent drywells and the location of the proposed temporary straw bales. The Board discussed the size of the proposed structure on Lot 1A and its basement and after some discussion recommended that the full basement be reduced in size to accommodate a mechanical room and a garage only, resulting in less of a displacement of soil on the property. The Board discussed draft conditions, including access to the roadway during construction, the inclusionary payment in lieu requirement and maintenance of access to the walkway path. The Board decided to continue the matter until its next Public Hearing. It wants to hear from the Fire Chief about the adequacy of the access right-of-way for emergency equipment in light of the proposed location of structures at the top of the hill. It also requested that the applicant submit 2 site plans, one with the walkway and one without the walkway. Attorney Lipkind volunteered to submit draft language regarding the easement condition. The Board agreed to keep the public portion of the hearing open.

There was a motion by David Abramson to continue PLN 18-13 to the February 22, 2018 Public Hearing at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.

b) **PLN 18-16**

Application by **Mark Kinnane, of Cape Associates, Inc.**, on behalf of **Barry and Cynthia Peskin**, requesting a Site Plan Review pursuant to Article 2, Section 2320 (A), High Elevation Protection District, of the Zoning By-Laws to demolish and rebuild an unsafe structure on the property located at **11 Brewster Street**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell, Dave Abramson sat on the case.

Presentation: Mark Kinnane, of Cape Associates, Inc., appeared to present the application. He reviewed the site plan and the demolition and rebuilding of the structure on the site, stating that all work will be done within the existing footprint, except for the addition of a bulkhead. As much material as possible will be salvaged for reuse. The cinder block retaining wall on the site will be replaced with a timber wall. A new palletized deck will be installed on the site and materials will be stored in the driveway. Anne Howard, the Building Commissioner, commented on the project and the poor structural condition of the existing structure.

Public Comment: None.

Board Discussion: The Board questioned Mr. Kinnane. The Board requested a landscaping plan indicating existing and proposed vegetation and dry wells. Mr. Kinnane agreed to find out if the chain link fence near the lot line belonged to the applicant and if it will be removed. In addition, the site plan should note that the propane tank and the utilities, if possible, will be buried and the unused staircase should be removed from the plan. The Board requested cut sheets for dark sky compliant exterior lighting fixtures.

There was a motion by Steven Baker to continue PLN 18-16 to the February 22, 2018 Public Hearing at 6:30 P.M. Brandon Quesnell seconded. VOTE: 5-0-0.

3. Work Session:

a) **Board Elections:**

Chair: *There was a motion by John Golden to nominate and elect Dave Abramson as Chair. Steven Baker seconded and it was so voted unanimously.*

Vice Chair: *There was a motion by John Golden to nominate and elect Steven Baker as Vice Chair. Dave Abramson seconded and it was so voted unanimously.*

b) **Discussion of proposed By-Law Amendments for April Town Meeting:** Mr. Gardner reviewed the latest iterations of the proposed Zoning By-Law amendments. The Board questioned Mr. Gardner and discussed the revisions.

c) **Pending Decisions:**

Brandon Quesnell and Grace Ryder-O'Malley left the hearing

i) **PLN 17-33 (reconsideration) (Steven)**

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**.

ii) **PLN 17-34 (reconsideration) (Steven)**

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. Unit 2**. Steven Baker read the decision for both cases.

There was a motion by Dave Abramson to approve the language as amended. Ryan Campbell seconded. VOTE: 4-0-0.

iii) **PLN 18-14 (Ryan)**

Application by **BPJC, LLC**, requesting the modification of a site plan pursuant to Article 4, Special Regulations, Section 4015 a. (1) and (5), of the Zoning By-Laws approved in Case #16-28 to revise portions of Building 5 & 6 to provide a second means of egress for Unit 13, construct wooden stoops for Units 9-12, to provide driveway curb cuts and sidewalk changes, to modify landscaping details and to remove trees and undertake replanting pursuant to directions by Town staff at the property located at **350 Bradford Street**. The decision was not ready.

- d) **Discussion of planting list and categories** (placeholder). Tabled.
- e) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan** (placeholder). This topic will be discussed in the spring.
- f) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder). Tabled.
- g) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and January 25, 2018.**

January 25, 2018: There was a motion by Steven Baker to approve the minutes as amended. Grace Ryder-O'Malley seconded. VOTE: 5-0-0.

- i) **Any other business that may properly come before the Board:** None.

4. Information items:

- a) Food truck survey data – for future discussion: Tabled.

Steven Baker moved to adjourn the Planning Board meeting at 10:45 P.M.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2018

Dave Abramson, Chair