

PLANNING BOARD

Meeting Minutes

Thursday, June 28, 2018

Judge Welsh Room

6:30 P.M.

Members Present: David Abramson, Brandon Quesnell, Ryan Campbell and Albert Carey.

Members Absent: Steven Baker (excused) and John Golden (excused).

Staff: Jeffrey Ribeiro (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

Chair David Abramson called the meeting to order at 6:30 P.M.

1. Executive Session

A declaration and vote, under G.L. c.30A, §21(a)(3), are expected, to allow the Planning Board to go into Executive Session to discuss litigation strategy as doing so in open session may have a detrimental effect on the litigation position of the Planning Board. The discussion concerns a request to revise a site plan to add peaked roofs of approximately 2.5 feet in height to the structures containing Units 3 & 4, 7 & 8 and 9 & 10 on the property located at 350 Bradford Street. Postponed to the meeting of July 12, 2018.

2. Public Comments:

None.

3. Public Hearings:

a) **PLN 18-19** (*request to continue to the meeting of July 12th*)

Application by **BPJC, LLC** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) and (5), of the Zoning By-Laws for the modification and supplementation of information regarding a development consisting of more than two residential units on a parcel and resulting in the removal of more than 750 cu. yds. of earth on the property located at **350 Bradford Street**. ***There was a motion by Ryan Campbell to grant the request to continue PLN 18-19 to the Public Hearing of July 12, 2018 at 6:30 P.M. Brandon Quesnell seconded. VOTE: 4-0-0.***

b) **PLN 18-28** (*request to postpone to the meeting of July 26th*)

Application by **Cape Cod Pilgrim Memorial Association** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (2), of the Zoning By-Laws for the installation of an inclined elevator (funicular) system comprising more than 2000 sq. ft. of new commercial area on a parcel located at **1 High Pole Hill Road**. There was a request from the applicant to continue the matter to the Public Hearing of July 26, 2018. ***There was a motion by Ryan Campbell to postpone PLN 18-28 to the Public Hearing of July 26, 2018 at 6:30 P.M. Brandon Quesnell seconded. VOTE: 4-0-0.***

c) **PLN 18-29** (*request to postpone to the meeting of July 26th*)

Application by **Cape Cod Pilgrim Memorial Association** requesting Site Plan Review by Special Permit pursuant to Article 2, Section 2320, High Elevation Protection District (A) &

(B), of the Zoning By-Laws for the installation of an inclined elevator (funicular) system running from its property on Bradford Street adjacent to the Bas Relief up the hill to the site of the Pilgrim Monument and Museum located at **1 High Pole Hill Road**. There was a request from the applicant to continue the matter to the Public Hearing of July 26, 2018. ***There was a motion by Ryan Campbell to postpone PLN 18-29 to the Public Hearing of July 26, 2018 at 6:30 P.M. Brandon Quesnell seconded. VOTE: 4-0-0.***

e) **PLN 18-33** (*postponed from the meeting of June 14th*)

Application by **Curaleaf Massachusetts, Inc.** requesting a modification to the application for a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change of use of a structure to a retail marijuana establishment on the property located at **170 Commercial Street**. Attorney Lester J. Murphy, representing Curaleaf Massachusetts, Inc., requested to postpone to later in the meeting, as his client had not yet arrived.

f) **PLN 18-34** (*postponed from the meeting of June 14th*)

Application by **Anne Nagle**, on behalf of **Verdant Medical, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment on the property located at **44 Capt. Bertie's Way**.

g) **PLN 18-35** (*postponed from the meeting of June 14th*)

Application by **Anne Nagle**, on behalf of **Verdant Medical, Inc.**, requesting Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment on the property located at **44 Capt. Bertie's Way**. The Board PLN 18-34 and PLN 18-35 together. David Abramson, Brandon Quesnell, Ryan Campbell and Albert Carey sat on both cases.

Presentation: Becca Rutenberg, representing Verdant Medical, Inc., Annie Nagle, Chief Operating Officer of Verdant Medical, Inc., Tito Jackson, Chief Executive Officer of Verdant Medical, Inc. and Tony Cappuccetti, a civil engineer appeared to present the application. Ms. Rutenberg reviewed the proposal. She said that the proposed retail medical establishment would be dual use; an adult use and a medical facility. She reviewed why the structure was well-suited to the proposed use, including its stand-alone status, potential for 16 parking spaces in the rear, including handicapped, ample space for bicycle parking, secure access for staff and product and two entrances, one ADA compliant, for access to the building. The structure meets all state and local regulations. No manufacturing will take place on the site. She then reviewed the site plan. The structure will be rebuilt in the same footprint as the existing and a new septic system will be installed. The structure's design will be discreet and resemble others in the neighborhood. Most activity will occur in the rear of the building where the primary entrance will be located and where the randomized deliveries will take place. She noted the building elevations. She described the transaction process through which customers will go after entering the facility; noting the controlled access of customers that will alleviate some security concerns when they enter the building, the function of the various rooms inside and the security protocols that will be used to secure the product. She briefly reviewed the security systems that will be utilized at the facility and protocols that will demonstrate site control to avoid any disruptions to the neighborhood, as well as govern the sale of product. Education of the customer about the product will take place once the customer enters the facility. She said

that signage would be minimal and clear and none will indicate what product is being sold on site. This would include signage to make sure customers do not enter abutting residential driveways or streets. No home delivery for medical patients will originate from this site.

Jeff Ribeiro gave a staff report and PowerPoint presentation to the Board regarding the project. He reviewed the Special Permit criteria and the how the project relates to local Zoning By-Laws. He noted the comprehensive traffic analysis submitted by the applicant and reviewed some statistics related to trip generation for marijuana dispensaries and he added that the applicant's report had included transportation demand management measures to reduce trips to and from the site. He reviewed the Administrative Site Plan Review criteria noting that pursuant to the commercial design standard, the proposed exterior building will be appropriate to the neighborhood and resemble traditional Cape Cod architecture. It will be windowless, however that is appropriate for its proposed use. He had a concern about the water requirements for the proposed plantings of wisteria and reed grass and suggested that more drought-resistant, native vegetation be planted on the site instead. He had a concern, given the slope on the site, about drainage on the site. The applicant has provided structure infiltration devices, but given the 'built' nature of the site and its small size, he suggested that more urban stormwater management systems, accompanied by an operations and management plan, would be appropriate and should be included as a condition in the Board's approval. He noted the Police Chief's comments regarding public safety concerns that were submitted to the Board and said that the Town is still in the process of developing licensing regulations. He said that the licensing process is much better at handling operational issues, many of which were included in the Police Chief's concerns, including flexibility in the ability to react quickly to changes in the conditions of a business. He noted that many of the Police Chief's comments were more relevant to licensing issues than Planning Board criteria. He reviewed some of his comments, including questions about the lighting plan, the entrance location and fencing and reviewed the Police Chief's recommended permit conditions. Mr. Ribeiro suggested that the applicant submit erosion control measures for the construction phase of the project, details of the materials to be used on the exterior of the structure, a landscape plan and more details about bike racks.

Public Comment: Kathy Meads, an abutter, spoke of several concerns, including an increase in traffic and the potential for aggravating existing traffic issues, the location of the site's access point directly across from George's Path, and asked if there would be a residential manager on the site. There were 2 letters of concern, and 6 letters in opposition to the project.

Board Discussion: The Board questioned Ms. Rutenberg and discussed the project. The Board requested more information and made suggestions, including that the applicant show greater detail on elevation drawings, identify fenestration materials and building materials, consider the creation of an ADA-compliant access enabling handicapped customers to enter the site and installing a sidewalk along the north side of the property, submit a landscape plan showing native vegetation, specify the number of bike racks to be placed on the site based on trip analyses, submit an operation and management plan for drainage control, specify erosion control measures during construction, show the location on the site plan of the generator and specify an appropriate test time for the generator, explore re-orienting the building on the site and locating the driveway on the north side of the property and explore planting more vegetative screening on the south side of the site. After hearing public comments concerning the project, Ms. Rutenberg said that the applicant was committed to improving the traffic

issues on Capt. Bertie's Way however possible, with speed bumps, signage or sidewalks, and would be willing to allocate funds to that end.

There was a motion by Ryan Campbell to continue PLN 18-34 and PLN 18-35 to the July 26, 2018 Public Hearing at 7:00 P.M. Brandon Quesnell seconded. VOTE: 5-0-0.

e) **PLN 18-33** (*postponed from the meeting of June 14th*)

Application by **Curaleaf Massachusetts, Inc.** requesting a modification to the application for a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change of use of a structure to a retail marijuana establishment on the property located at **170 Commercial Street**. David Abramson, Brandon Quesnell, Ryan Campbell and Albert Carey sat on the case.

Presentation: Attorney Lester J. Murphy, representing the applicant, Patrik Jonsson, CEO of the applicant corporation, Gretchen McCarthy, the Vice-President of Dispensary Operations and Development for the applicant corporation, and Colleen Medeiros, a traffic engineer and consultant. Attorney Murphy reviewed the project, which proposes to be located in the basement of the building on the site. He reminded the Board that the application was for a Special Permit for use and not for Site Plan Review, so the Board would need to determine, pursuant to the Special Permit criteria in Article 5, Section 5330, that the social, economic and other benefits of the proposal to the neighborhood and Town outweigh any adverse effects such as hazard, congestion and environmental degradation. He noted that even though this application is not for Site Plan Review, the applicant has submitted a site plan, an existing and proposed floor plan for the basement, as well as an information packet, cut sheets for exterior lighting, a development impact under s. 5331, a traffic assessment study, the Police Chief's comments, with Mr. Jonsson's responses, and details about the operations and security systems of the business. He reminded the Board that there were no parking requirements for the Town Center Commercial Zone. He said that there are no parking spaces associated with the unit on site and that the applicant's business model anticipates that most of the customers for the business would be arriving by foot or bicycle. He stated that there were bike racks for 36 bicycles existing on site and more would be added if necessary. He added that a generator will be installed in the rear of the site and the applicant has submitted information about how products would be delivered, how customer flow would be handled at the business, the traffic flow, the proposed security protocols, signage and lighting. The developmental impact statement submitted addresses the potential impacts of the business, which Attorney Murphy alleged would be minimal to none, including traffic impacts. He noted that there was a loading and unloading zone near the front of the building for customers picking up prescriptions. The hours of operation proposed are 8:00 A.M. to 5:00 P.M. Monday through Saturday, and Sunday 10:00 A.M. to 5:00 P.M. He said that deliveries of product would be during non-business hours and two security guards would be involved in the process. The business will have one entrance and exit and will be staffed by a two security guards at all times. No consumption will be allowed on site, customers will have to leave the premises after purchasing the product and the proposed exterior lighting will be dark sky compliant. He argued that there will be a financial benefit to the Town and the Board can find that the project is in keeping with the criteria in s. 5330 for a Special Permit.

Mr. Jonsson reviewed several security measures that will be employed regarding the delivery of product. Ms. Medeiros reviewed the traffic study and trip generation numbers.

Mr. Ribeiro briefly reviewed staff comments and concerns regarding the project. There will be no internal waiting area but a long ramp down to the entrance will be used instead for queuing of customers. He recommended that the Board should consider whether the walkway could handle the potential volume of queuing during the summer season. He reviewed the applicant's traffic analysis. He had concerns about the adequacy of the bicycle racks on the site and he noted that there was no information provided on the location of exterior lighting and lighting levels. He mentioned that there is a handicapped space in front of the building and other street parking farther to the west of the site. He suggested that the Board think about the locations of the two sites being reviewed when considering hours of operation.

Public Comment: Chris Matheson, an abutter, was concerned about the traffic congestion at the corner where the building is located, Jim Foss, George Sauer and Jim Mauro spoke in opposition to the application. There were 3 letters in opposition to the application. Attorney Murphy rebutted some of the public comments about traffic and Mr. Jonsson said he would be willing to mitigate any concerns about lighting in the rear of the structure.

Board Discussion: The Board questioned Attorney Murphy, Mr. Jonsson, Ms. McCarthy and Ms. Medeiros. The Board had several concerns, including whether the ramp is ADA-compliant, if the Fire Chief has reviewed the proposed project, the location of signage and exterior lighting, the inadequacy of the bike racks and the queuing ramp to handle potential volume of customers after Tea Dance lets out at 7:00 P.M. and how parking information for customers traveling from out of town would be provided and disseminated. Mr. Abramson reviewed the information that the Board would like from the applicant at the next hearing of the matter, including the addition of more bike racks on the site plan, clarifying the ADA status of the ramp, the provision for the fire safety of the ramp if used for a queuing area, details regarding the location of exterior lighting fixtures in the ramp area and the parking area in the rear, locating the generator on the site plan and details about its housing in the rear of the building and a plan for the dissemination of information related to parking for customers who arrive at the site by car.

There was a motion by Ryan Campbell to continue PLN 18-33 to the July 12, 2018 Public Hearing at 7:00 P.M. Brandon Quesnell seconded. VOTE: 5-0-0.

h) **PLN 18-36** (*postponed to the meeting of July 12th*)

Application by **Kieran Healy**, on behalf of **Marolima East, LLC**, requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (5), of the Zoning By-Laws for the construction of a new building requiring the excavation, land removal or earth-moving of more than 750 cu. yds. that will alter the topography from natural grade at the property located at **828 Commercial Street**.

i) **PLN 18-37** (*postponed to the meeting of July 12th*)

Application by **Kieran Healy**, on behalf of **Marolima East, LLC**, requesting Site Plan Review pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws for the construction of a new building in a high elevation protection district on the property located at **828 Commercial Street**.

3) **Work Session:**

a) **Pending Decision:**

PLN 18-31 (Steven)

Application by **BPJC, LLC** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) and (5), of the Zoning By-Laws for the modification and supplementation of information regarding a development consisting of more than two residential units on a parcel and resulting in the removal of more than 750 cu. yds. of earth on the property located at **350 Bradford Street**. The reading of the decision has been tabled.

b) **Review and Discussion of Planning Board Approvals for 63 Shank Painter Road, 27 Brewster Street and 39 Pearl Street.** Mr. Ribeiro reviewed related the issues at 63 Shank Painter Road. An issue of substandard living conditions and unpermitted work being performed forced the shutdown of the living area by the Health Commissioner and a stoppage of the work by the Building Commission. Neither of those issues was related to the project that was approved by the Board. The Board briefly discussed the property and how the enforcement of the conditions of a Special Permit occurs after approval.

Mr. Ribeiro reviewed the situation at 27 Brewster Street. The Building Commissioner, in consultation with Town Counsel, has determined that the property is currently functioning as an unpermitted parking lot and will need a Zoning Board of Appeals Special Permit for that use in order to rectify that situation. Zoning enforcement action has begun and the property owner will have to appeal the opinion of the Building Commissioner or apply for a ZBA SP. The parking lot will need to be removed if the appeal fails or if the ZBA does not approve a SP for a parking lot use.

The Board discussed the exterior lighting at 39 Pearl Street. The homeowner had submitted cut sheets for the lighting fixtures. The Board briefly discussed the project and whether the lighting was inspected before a Certificate of Occupancy was issued. Staff said that no CO has been issued for 39 Pearl Street.

c) **Discussion of potential Zoning By-Law amendments for Fall 2018 Town Meeting and/or Spring 2019 Town Meeting.** Tabled.

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).

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 June 14, 2018.**

June 14, 2018: *There was a motion by Ryan Campbell to approve the minutes as written. Brandon Quesnell seconded. VOTE: 5-0-0.*

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

4. Information items:

Food truck survey data – for future discussion: Tabled.

Steven Baker moved to adjourn the Planning Board meeting at 9:45 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
David Abramson, Chair