

PLANNING BOARD

Meeting Minutes

Thursday, June 14, 2018

Judge Welsh Room

6:30 P.M.

Members Present: David Abramson, John Golden, Steven Baker and Albert Carey (Alternate).

Members Absent: Ryan Campbell (Alternate) (excused) and Brandon Quesnell (excused).

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

Chair David Abramson called the meeting to order at 6:40 P.M.

1. **Public Comments:**

None.

2. **Public Hearings:**

a) **PLN 18-19** (*continued to the meeting of June 28th*)

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**.

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

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 June 28, 2018. *There was a motion by John Golden to postpone PLN 18-28 to the Public Hearing of June 28, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 4-0-0.*

c) **PLN 18-29** (*request to postpone to the meeting of June 28th*)

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 June 28, 2018. *There was a motion by John Golden to postpone PLN 18-29 to the Public Hearing of June 28, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 4-0-0.*

d) **PLN 18-32**

Application by **Robert A. Henrique** on behalf of **William F. Brown**, 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 three-season addition in the same footprint as an existing deck on the structure located at **63 Bayberry Avenue**. David Abramson, John Golden, Steven Baker, John Golden and Albert Carey sat on the case.

Presentation: Bob Henrique appeared to present the application. He reviewed the project, which includes the addition of a three-season room on the rear of the structure where an existing deck is located. The deck will be removed and the addition constructed in the same footprint. No changes or disturbance will be done to the landscape, except for installing sonotubes to support the new addition. All staging of material will be in the driveway.

Public Comment: Jerry Conlin, an abutter, spoke in support of the application.

Board Discussion: There were no questions from the Board.

There was a motion by Steven Baker to approve the site plan pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws for the construction of a three-season addition in the same footprint as an existing deck on the structure located at 63 Bayberry Avenue. John Golden seconded. VOTE: 4-0-0.

e) **PLN 18-33** (*request to postpone to the meeting of June 28th*)

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**. There was a request by the applicant to postpone PLN 18-33 to the Public Hearing of June 28, 2018 at 6:30 P.M. ***Steven Baker moved to grant the request by the applicant to postpone PLN 18-33 to the Public Hearing of June 28, 2018 at 6:30 P.M. John Golden seconded. VOTE: 4-0-0.***

f) **PLN 18-34** (*request to postpone to the meeting of June 28th*)

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**. There was a request by the applicant to postpone PLN 18-34 to the Public Hearing of June 28, 2018 at 6:30 P.M. ***Steven Baker moved to grant the request by the applicant to postpone PLN 18-34 to the Public Hearing of June 28, 2018 at 6:30 P.M. John Golden seconded. VOTE: 4-0-0.***

g) **PLN 18-35** (*request to postpone to the meeting of June 28th*)

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**. There was a request by the applicant to postpone PLN 18-35 to the Public Hearing of June 28, 2018 at 6:30 P.M. ***John Golden moved to grant the request by the applicant to postpone PLN 18-35 to the Public Hearing of June 28, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 4-0-0.***

h) **PLN 18-36** (*request to postpone 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**. There was a request by the applicant to postpone PLN 18-34 to the Public Hearing of July 12, 2018 at 6:30 P.M. **Steven Baker moved to grant the request by the applicant to postpone PLN 18-36 to the Public Hearing of July 12, 2018 at 6:30 P.M. John Golden seconded. VOTE: 4-0-0.**

i) **PLN 18-37** (*request to postpone 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**. There was a request by the applicant to postpone PLN 18-37 to the Public Hearing of July 12, 2018 at 6:30 P.M. **Steven Baker moved to grant the request by the applicant to postpone PLN 18-36 to the Public Hearing of July 12, 2018 at 6:30 P.M. John Golden seconded. VOTE: 4-0-0.**

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**. Acting Chair Mr. Baker read a request received by the Board from counsel to meet in Executive Session before any action to finalize the decision.

b) **Discussion of potential changes to the Zoning By-Laws related to waterfront uses and dimensional requirements including potential changes to the Harborfront Overlay District and the Harbor Setback.** Mr. Ribeiro reviewed his proposed changes for, possibly, Fall Town Meeting. He said that there are inconsistencies in the Zoning By-Laws related to the Harbor Setback and the Harborfront Overlay District. The Harbor Setback, created before the Zoning By-Laws took effect, is a no-build zone for any non-water-dependent structure and is located 35' landward of mean high water. The mean high water mark is a difficult thing to quantify and moving target over time as a result of several factors, such as topography, and is not compatible with the historic development of properties in Town. It makes most properties on the waterfront non-conforming and any renovation or other change to the structures is either prohibited or requires a Special Permit from the Zoning Board of Appeals because of its pre-existing non-conformity. The Harbor Setback pre-dates the Harborfront Overlay District. It prevents re-development and public access. There are currently working piers in the Town,

however the traditional historical commercial working waterfront that the Town used to have in the days when the fishing industry was at its height is unlikely to return.

Mr. Ribeiro said the Harborfront Overlay District might better achieve the goals of the Town. It is more consistent with Chapter 91, the state waterways regulation regarding tidelands, and with the draft Harbor Plan. He said that the Harbor Setback is outdated and should be eliminated and the Town should refocus on the Harborfront Overlay District, which was created in 1996 because of concerns over maintaining commercial fishing operations on MacMillan Wharf. It extends the length of the Town Center Commercial Zoning District. It has two boundary lines and operates under the more restrictive of the two. It is measured 195' seaward of the north boundary of Commercial Street and is aligned, more or less, with the mean high water line. Its purpose is to regulate the uses permitted in the harborfront area, promote appropriate waterfront activities and the efficient use of harbor frontage, minimize adverse impacts to pedestrian and visual access and protect harbor water quality. He provided a visual of the district line on a map of the Town. He described what kind of uses are now located in the district. He thought these uses should stay as a matter of right. He reviewed the Special Permit uses in the Zoning By-Laws and their respective review criteria. He then reviewed the permitted uses, which do not include residential uses. He reviewed the draft Harbor Plan in regard to regulatory coordination for the harborfront. One of its recommendations is the Harborfront Overlay District regulations are consistent with Chapter 91. He briefly reviewed Chapter 91 regulations and gave examples of uses allowed in the waterfront area under its jurisdiction. The inconsistencies in the local regulations are problematic and the different boundaries need to be revised. More research is needed to draw one clear line, such as with other Zoning Districts, that doesn't require measuring from mean high water in order to delineate the waterfront area. To be consistent with Chapter 91 and the Harbor Plan, he suggested allowing other business uses, as well as the redevelopment of the existing waterfront, and an increase in public access. There are currently several under-utilized properties on the waterfront that could be developed and required to provide significant public amenities and access. He proposed possibly providing limited residential uses and revising the two Special Permit categories by combining them into one category. He is looking for direction from the Board for these ideas. The Board discussed the issues.

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 May 24, 2018.

May 24, 2018: *There was a motion by Steven Baker to approve the minutes as written. John Golden seconded. VOTE: 4-0-0.*

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 8:00 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
David Abramson, Chair