

PLANNING BOARD  
Meeting Minutes  
Thursday, May 8, 2014  
Judge Welsh Room  
6:30 P.M.

**Members Present:** Mark Weinress, Marianne Clements, John Golden and Grace Ryder-O'Malley.

**Members Absent:** Dorothy Palanza (excused) and Brandon Quesnell (excused).

**Staff:** Gloria McPherson, Town Planner.

Chair Mark Weinress called the meeting to order at 6:35 P.M.

**Meeting Agenda:**

1. **Public Comments:**

None.

2. **Public Hearings:**

a) **Case #FY14-17**

Application by **Sacha Richter**, requesting Site Plan Approval pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws, to create a second dwelling unit in the existing structure at the property located at **459 Commercial Street**. Grace Ryder-O'Malley disclosed that her employer is an abutter to the property, but she doesn't believe she has a conflict so will sit on the case.

Sacha Richter appeared to present the application. Chair Mark Weinress clarified that the Board is reviewing this project because of parking requirements, however the applicant currently meets the parking requirements to add a second dwelling unit. The green space requirement has been met as well. There is no change in the footprint of the building and only interior space will be affected.

Mr. Richter explained that a small dumpster will be placed in the parking area to handle construction debris.

***John Golden moved to approve the Site Plan in Case #FY14-17, pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws, to create a second dwelling unit in the existing structure at the property located at 459 Commercial Street as presented. The motion was seconded by Grace Ryder-O'Malley. VOTE: 4-0-0.***

b) **Case #FY14-18**

Application by **Deborah Paine, Inc.**, on behalf of **John Lamb and David Geiger**, requesting Site Plan Approval pursuant to Article 2, Section 2, Districts and Regulations, Section 2320, High Elevation Protection District, of the Zoning By-Laws to construct a second floor roof deck and add windows and a door to access the deck on the east elevation at the property located at **9 Telegraph Hill Road**.

Deborah Paine, Trevor Pontbriand, John Lamb and David Geiger appeared to present the application. The applicants seek to create a second floor roof deck by cutting into existing habitable space and remodel a kitchen and master bedroom. There will be no change in the footprint of the building. Mr. Lamb spoke to the tree issue. There were three trees that were pushing against the structure, one of which was touching the roof, that were removed shortly after Mr. Lamb and Mr. Geiger purchased the property. They had consulted with their closing attorney and their direct neighbors about restrictions in regard to the removal of the trees. None of those parties knew of any restrictions, so the trees were removed. However, while appearing before the Zoning Board of Appeals, other neighbors raised an issue about the legality of the tree removal. After some research, a deed restriction was discovered that referenced pre-cuttings to a line parallel to the southern lot line. The restriction indicated that no tree with a diameter greater than 12” was to be cut south of that line. The restriction was not uncovered during the title search because of a filing error. One of the trees could have been removed under the restriction, however the removal of the other two would be questionable. Since that removal, the owners have planted the hill with native plants in order to combat erosion.

The Board questioned Mr. Geiger about the plantings and Mr. Pontbriand and Ms. Paine about the interior renovations. Some windows and doors on the first floor on the south and west elevations will be replaced because of damage due to leakage. The southwest facing deck will be replaced in kind. A construction protocol was submitted with the application packet. The south-facing gable will be pushed back 6’ to create a deck measuring the width of the gable. Ms. Paine wanted a clarification of number 6 of the construction protocol which stated that the silt fence will remain in place for six months after the completion of the project. She thought it might have been a typo and that after the completion of the construction, the owners would want to continue their planting on the property and want the silt fencing removed. Ms. McPherson said that the silt fence is usually removed when the site has been stabilized with vegetation, making certain that the vegetation has stabilized the site. The Board had no issue with the removal of the fence before six months after the completion of the project so Mr. Geiger can continue his planting on the slope.

There was no public comment. There was one letter in support of the project.

*A motion was made by Grace Ryder-O’Malley to approve the Site Plan in Case #FY14-18, pursuant to Article 2, Section 2, Districts and Regulations, Section 2320, High Elevation Protection District, of the Zoning By-Laws to construct a second floor roof deck and add windows and a door to access the deck on the east elevation at the property located at 9 Telegraph Hill Road with the caveat that the last line of number*

*six of the construction protocol regarding silt fencing is removed. The motion was seconded by Marianne Clements. VOTE: 4-0-0.*

Ms. McPherson clarified that the condition in regard to number 6 of the construction protocol will read, “the silt fence may be removed after the completion of construction without waiting six months.”

c) **Case #FY14-19**

Application by **Bell Atlantic Mobile of Massachusetts Corp., Ltd., DBA Verizon Wireless**, requesting Site Plan Approval pursuant to Article 7, Wireless Telecommunication Towers and Facilities, Section 7070, General Requirements, and Section 7080, Application Requirements, and Site Plan Approval pursuant to Article 2, Districts and Regulations, Section 2320, High Elevation Protection District, of the Zoning BY-Laws, for the addition of 12 antenna panels onto an existing water tank, together with associated equipment and cable tray down the side of the water tank and new ground-mounted equipment in an expanded fenced enclosure at the property located at **120 Mt. Gilboa Road**. Marianne Clements disclosed that she is a retiree of Verizon Corporate but she is confident that she can render a fair and unbiased decision.

Attorney Greg Sampson appeared to present the application. The facility will consist of three antenna arrays of four panels each, for a total of 12 panels, mounted on the side of the water tower at centerline heights of 78’, associated radio heads and combiner boxes, coaxial cables and a cable tray connecting the equipment on the water tower to the ground-based equipment. The applicant proposed to install and maintain, to the south of the water tower, a 10’ by 12’ equipment shelter containing radio and power supply equipment. In addition, the facility will include an emergency generator, and a separately fenced-in aboveground propane tank to provide back-up power in the event of an interruption in the power supply of the grid. The shelter and ground equipment will be partially supported by a newly-constructed retaining wall. Photo simulations were submitted with the application and included a depiction of the site as it will appear after the construction of the facility. A sound study was submitted showing that there will be minimal impact on abutting properties. The only sound at the facility will be generated by a cooling facility during the summer months and the use of a back-up generator that will be tested during the week for one half hour. Coverage maps have been submitted. The only change made since the application was filed was a change in how the antennas are mounted to the site. All the cables will be placed above and on the rim of the tower and will run down under the existing ladder. The applicant is willing to paint the cable tray the same color as the tower. A new set of plans reflecting the change were submitted.

There was no public comment.

The Board questioned Attorney Sampson. He stated that the applicant was not requesting any waivers and would accept the condition that the generator testing would occur at noon on Wednesdays and that a \$30,000 bond would be posted in case equipment needed to be removed.

The Board reviewed the requirements of Article 7, Section 7070:

- Section 7070 A. Access Roads and Above Ground Utilities: Not applicable;
- Section 7070 B. Setbacks for New Towers: Not applicable;
- Section 7070 C. Camouflage and Landscape Screening: The site is adequate the way it is and no additional plantings are required;
- Section 7070 D. Fencing and Signs: The whole site is fenced in;
- Section 7070 E. Communication Equipment Shelters: There will be a 10' by 12' equipment shelter on site. The requirements have been met;
- Section 7070 F. Tower Finish and Tower Heights and Tower Types: Not applicable;
- Section 7070 G. Minimizing the Number of Required Tower Antennas: Not applicable;
- Section 7070 H. Commercial Advertising: Not applicable;
- Section 7070 I. Lighting of Towers: Not applicable;
- Section 7070 J. Hazard to Air Navigation: Not applicable;
- Section 7070 K. Noise: A sound study was submitted that the Board approved;
- Section 7070 L. Special Permit Standards for Siting of Telecommunication Facilities, Towers, Repeaters: Not applicable;
- Section 7070 M. Parameters and Criteria for Evaluating Siting Impacts: These criteria have been satisfied;
- Section 7070 N. Environmental Standards: These criteria have been satisfied; and
- Section 7070 O. Primary Coverage Outside Provincetown: The facility will address a significant coverage gap.

The Board has discussed the requirements of the High Elevation Protection District Regulations when it discussed the screening, the placement, height, and physical characteristics of the proposed facility. The facility does not extend beyond the height of the existing vegetation.

The only specific waiver requested by the applicant pertains to the submission of a landscaping plan, as the proposed project does not include any new landscaping. The project proposed the removal of about 750 sq. ft. of vegetation to accommodate the ground equipment. All other existing vegetation will remain.

***There was a motion by Grace Ryder-O'Malley to grant a waiver of the landscaping plan pursuant to Article 4, Section 4027 d. Landscaping. The motion was seconded by John Golden. VOTE: 4-0-0.***

***There was a motion by John Golden to grant a Special Permit for Case #FY14-19 pursuant to Article 7, Wireless Telecommunication Towers and Facilities, Section 7070, General Requirements, and Section 7080, Application Requirements, and Site Plan Approval pursuant to Article 2, Districts and Regulations, Section 2320, High Elevation Protection District, of the Zoning BY-Laws, for the addition of 12 antenna panels onto an existing water tank, together with associated equipment and cable tray down the side of the water tank and new ground-mounted equipment in an expanded fenced enclosure at the property located at 120 Mt. Gilboa Road with the conditions***

*that a \$30,000 equipment removal bond shall be posted, that the Special Permit shall be coterminous with the ten-year lease with the Town and that the generator-testing shall take place at noon on Wednesday. The motion was seconded by Grace Ryder-O'Malley. VOTE 4-0-0.*

*There was a motion by Grace Ryder-O'Malley to approve the Site Plan for Case #FY14-19. The motion was seconded by Marianne Clements. VOTE: 4-0-0.*

d) **Case #FY14-20**

Application by **Cape Associates**, on behalf of **Michael D'Amara**, requesting Site Plan Approval pursuant to Article 2, Districts and Regulations, Section 2320, High Elevation Protection District, of the Zoning By-Laws to expand the existing grade-level deck at the property located at **5 Upper Miller Hill Road**.

Derik Burgess, from Cape Associates, appeared to present the application. The applicant seeks a 6' expansion of an existing grade-level, cantilevered deck on the rear and side of the structure. The deck will not be visible from any public way. The grade in the rear yard falls away less than 1' along the length of the expansion. Mr. Burgess is requesting a waiver from the requirements of Article 4, Section 4030. The Board had conducted a site visit. Some changes made after the site visit include the decision that an existing tree will remain at the site to preserve a dune and that some footings will be moved back from an erosion area so as not to disturb the area further. According to Mr. Burgess, the cantilever style will protect the eroded area from direct rainfall. The footings will not be sonotubes, but a pin foundation that requires no excavation. Mr. Burgess stated that this will help strengthen the dune similar to a tree root.

The Board questioned Mr. Burgess. He stated that the deck is well back from the crest of the dune. The Board was concerned about the 6' projection that appeared to be going over the edge of the dune and the potential for further erosion at the site. Mr. Burgess explained that the limit of work was over the edge of the dune, not the deck itself. The Board asked if the footings could be pulled back to stabilize the dune. Mr. Burgess said that they could move the footings back, but the deck could not be cantilevered any more than 2'. The applicant was willing to put in plantings in the erosion areas. Taking into consideration some of the changes agreed to by the applicant, the Board would like to have the site re-staked and conduct another site visit. The hearing of the application will be continued to the May 22, 2014 Public Hearing at 6:30 P.M. The Board requested an erosion control plan for the site as well.

*There was a motion by Grace Ryder-O'Malley to continue Case #FY14-20 to the May 22, 2014 Public Hearing at 6:30 P.M. The motion was seconded by Marianne Clements. VOTE: 4-0-0*

e) **Case #FY14-21**

Application by **Adam Erenberg**, on behalf of **Brandychamp Realty Trust**, requesting Site Plan Approval pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for the renovation of greater than 50% of the kennel and related

parking and landscaping improvements at the property located at **79 Shank Painter Road.**

Attorney Eliot Parkhurst, Adam Erenberg, Tom Walter and David Sanford appeared to present the application. The applicant seeks to add a retail space and to renovate a kennel and a residence at the site. The site plan approval will allow the applicant to continue the renovations which have been limited to demolition up to this point. A revised site plan was submitted. Ms. McPherson noted that there was a new property line on the plans that was not on the applicant's first plan. Mr. Walter said that he had concerns about the required planter on Shank Painter Road. Ms. McPherson also noted that there were no dimensions and the scale on the plans was not accurate. She questioned the accuracy of the location of the lot line, as when a site visit was conducted, the property bounds were observed and they do not match up to what was shown on the current plans. The Board discussed the plans, however only Chair Mark Weinress had attended the site visit. Ms. McPherson suggested that the DPW would need to review these plans, as an employee of the DPW was present at the previous site visit when the lot line was thought to be in a different location.

Mr. Walter asked if the planter location could be re-visited at a later date as they were trying to get the kennel open for the season. He commented on his concern about delivery trucks blocking traffic when they are unloading material on Shank Painter Road. The Board had no issue with the suggestion to separate the planter/lot line issue from the remainder of the project.

Mr. Walter described the renovations for the new kennel and retail pet store. All exterior lighting will be LED lights and will be dark sky compliant. Native plantings will be used on the site. There have been some changes to egresses in the structure. The Board questioned Mr. Walter about the changes. Ms. McPherson will contact Eric Larsen at DPW to review the plans. Ms. McPherson explained that at 63 Shank Painter Road, there were requirements for site planning, including along Shank Painter Road, for a 10' planting strip, which was revised to an 8' section for street trees within the right of way in order to provide additional room. Something similar will be required at this site. The applicant could get a waiver of the 10' planting requirement, however DPW will want to weigh in on the circulation of traffic. The Board discussed how to proceed in separating the project in order to allow the building to continue with renovations.

There was one letter in support of the project. Mike Trovato, an abutter and Fire Chief, spoke of his concern about the planters and their effect on the traffic flow on Shank Painter Road. He had a great concern about public safety issues and thought that the issue needed to be studied more carefully. Chair Mark Weinress suggested that the Board put the Shank Painter Road issue on a work session agenda in the next month or so and invite public input. Jon Sinaiko supported Mr. Trovato's concerns and supported the application. Liz Athineos had a question her occupancy permit at 63 Shank Painter Road.

The Board continued its discussion. It decided to approve a Phase I, which includes from the front of the structure to the rear lot line and to schedule another hearing for Phase II,

which includes the front parking area encompassing the area from the front of the façade to Shank Painter Road.

*There was a motion by Grace Ryder-O'Malley to grant conditional Site Plan approval in Case #FY14-21 for Phase I, to include from the front of the façade to the rear lot line, as submitted by the applicant and as designated on the signed plan, with the Phase II presentation by the applicant to be scheduled within 90 days of the conditional approval. The motion was seconded by Marianne Clements. VOTE: 4-0-0.*

f) **Case #FY14-16** (continued from April 10, 2014)

Application by **Stanley Sikorski** requesting Site Plan Approval pursuant to Article 2, Section 2, Districts and Regulations, Section 2320, High Elevation Protection District, and a Special Permit pursuant to Article 4, Special Regulations, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws for the construction of a two-family dwelling, with driveway, landscaping and associated site work at the property located at **294 Bradford Street**.

Attorney Lester J. Murphy, Stan Sikorski and Reggie Donoghue appeared to discuss the project. Attorney Murphy explained that they had received a request for further engineering information from Ms. McPherson. They had not responded to the request because there was not enough time given the extent of the request. Attorney Murphy, after speaking with Mr. Donoghue and his client, determined that the cost of the additional engineering and architectural work would be too prohibitive to his client, who has already invested a substantial amount of money in the project already. And, he noted, this was without feedback from the Board as to which way it is leaning concerning the project. Therefore, he is looking for some concrete suggestions and direction from the Board about the project.

Ms. McPherson clarified the information that she is requesting from the applicant.

Chair Mark Weinress commented on his concerns about the project, including protecting the dune on the site. He suggested that the applicant remove the underground garage from the project and move the house forward towards the parking area. By trying to stay on top of the dune, less excavation of the dune would be necessary. Attorney Murphy said that if the garage were to be eliminated, some small area would be necessary in order to accommodate the elevator. Mr. Sikorski said that the elevator and a vehicle turn-around area were essential, but that a garage was not as essential.

Sherry Dranch, Anthony Fisher, Jon Sinaiko, Don Beal and Mary DeAngelis spoke against the project. William N. Rogers, II, P.E., P.L.S., representing several abutters, had concerns about the effects the project would have on his clients' properties. There were four letters in opposition to the project.

The Board discussed the project and its concerns, which included the size of the house given the size and dimensions of the lot and the proposal for an underground garage.

The applicant was willing to revise the plans per the concerns discussed by the Board and requested a continuance to the June 22, 2014 Public Hearing at 6:30 P.M.

*There was a motion by Grace Ryder-O'Malley to grant the request to continue Case #FY14-16 until the June 22, 2014 Public Hearing at 6:30 P.M. The motion was seconded by Marianne Clements. VOTE: 4-0-0.* The public portion of the hearing will remain open.

3. **Other Business:**

a) **Case #FY14-22**

Application by **William N. Rogers, II**, on behalf of **John W. Reed**, for an endorsement of a plan believed to not require approval (ANR) for a lot line adjustment between two existing lots at the property located at **5 and 8 Heather's Way (Assessor's Map 8-4, Parcels 5 and 6)**.

Billy Rogers appeared to present the application. Parcel 1 is being conveyed from Lot 5 to Lot 4 to make new Lots 8 and 9. The remaining lots have the frontage and area pursuant to the Zoning By-Laws and all lots are being conveyed by the same owner. The original line is indicated as a dashed line on the plan.

The Board briefly questioned Mr. Rogers.

*There was a motion by Marianne Clements to endorse the plan believed to not require approval (ANR) in Case #FY14-22, for a lot line adjustment between two existing lots at the property located at 5 and 8 Heather's Way (Assessor's Map 8-4, Parcels 5 and 6). The motion was seconded by John Golden. VOTE: 4-0-0.*

- b) **63 Shank Painter Road:** Ms. McPherson received a request from the owners of the Bike Shack asking to move the walkway so that they can move their sign out of the public right of way. A plan was submitted showing the sign pulled back, but over the existing walkway. The request was to put the walkway over Town property. The Board discussed the request. The Board decided that they did not want to approve walkways across Town-owned land.

Ms. McPherson added that there was also a request to use stone dust for the walkway instead of palletized wood as proposed by the applicants, or porous brick set in sand, an option suggested by the Board. The parking area is composed of crushed shells and the walkway was supposed to be differentiated from the parking area. The Board discussed the request. The Board decided that the applicants should comply with the original conditions of the site plan review.

- c) **Minutes of previous meetings:** Postponed.

There was a motion by John Golden to adjourn the Planning Board meeting of May 8, 2014 at 10:30 P.M.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2014  
Mark Weinress, Chair