

PLANNING BOARD
Meeting Minutes
Thursday, May 22, 2014
Judge Welsh Room
6:30 P.M.

Members Present: Mark Weinress, Marianne Clements, Dorothy Palanza, John Golden, Grace Ryder-O'Malley and Brandon Quesnell.

Members Absent: None.

Staff: Gloria McPherson, Town Planner.

Chair Mark Weinress called the Planning Board meeting to order at 6:30 P.M.

Meeting Agenda:

1. **Public Comments:**

None.

2. **Public Hearings:**

- a) **Joint Meeting with the Board of Selectmen** to discuss recent required improvements within the Shank Painter Road right-of-way and a broader vision for the future of Shank Painter Road.

Board of Selectmen: Tom Donegan, Erik Yingling, Robert Anthony, Raphael Richter and Cheryl Andrews.

Staff: Acting Town Manager David Gardner.

Others Present: Attorney Ilana Quirk.

Glenn Cannon, of the Cape Cod Commission, appeared to review a powerpoint presentation regarding the 2012 Shank Painter Road Corridor Study. He explained that the Study was the result of safety concerns of Town officials and the public about the area, including its intersection with Route 6 and the location of the dog park. In addition, there were concerns related to the high volume of vehicles, the entryways, the number and width of the curb cuts and for pedestrians and bicycles using the road. As a result of these concerns, the CCC conducted a study of the use of the road. It found that there is not a lot of congestion and there is a good level of service provided however, there is a general lack of sidewalks and no defined shoulder for bicycles. In addition, the road's drainage system is inadequate to handle heavy rains, which results in localized flooding. The CCC made a number of recommendations, including the creation of sidewalks, a consolidation of curb cuts and the re-stripping of crosswalks for pedestrians. The CCC, in consultation with Provincetown officials and with input from the public, developed several alternatives for further analysis, including improvements to stormwater discharges, the development of various roadway cross-sections to better accommodate bicycles and pedestrians. Other corridor changes

included the conversion of utilities from overhead/pole-mounted to underground and bus shelters to provide safe waiting areas for bus patrons. Costs were major concerns for improvements at the time the Study was done. Mr. Cannon explained the concept of the public right-of-way. There is a high potential for crashes on Shank Painter Road because of the speed of vehicles, including bicycle v. cars and, more likely, bicycle v. pedestrians and bicycle v. bicycle. Another of the Study's recommendations was to have conversations with business owners along the road about the difficulty of implementing a project like this and the impacts on their businesses, especially in regard to the impact on parking. Transportation costs are and were extremely expensive and a project like Shank Painter Road which would have cost upwards of a million dollars in 2011 and 2012, would cost much more if undertaken today. A short term improvement could include the re-stripping of Shank Painter Road with a clearly-defined, dedicated bike lane, making sure that vehicles know where they are supposed to be within the public right-of-way, giving bicycles more space. The CCC had also recommended that there be an all-way stop at the intersection of Shank Painter Road and Bradford Street which has not yet been implemented. After a question from Selectperson Andrews, it was unclear whether the BOS voted to adopt the CCC recommendations about Shank Painter Road.

Town Planner Gloria McPherson made a presentation covering some issues around Site Plan Review, including the process in general and how it related to the by-law changes that were adopted at Town Meeting and within the context of Shank Painter Road. Shank Painter Road has been the topic of much discussion in the last several years and a lot of the public think it is due for improvements and upgrades. She explained what Site Plan Review involved and what it sought to accomplish. It is not a prohibition of use, but an opportunity for an applicant to work with the Planning Board to come up with a reasonable plan that addressed the needs of both the site and the community. The Board and the applicant have a dialogue based on standards contained in the Zoning By-Laws and the particulars of the site. The Board tends to focus on aspects that are internal to the site, such as circulation, parking and lighting. Its concern is how the site relates to the street and the community in general. Its goal is to arrive at the best possible design for that specific location. Site Plan Review is a tool that is used to shape a proposed project for a specific site. It is not precedent setting because it is site specific. She then reviewed the Zoning By-Laws that are applicable to Site Plan Review in general and Shank Painter Road in particular, including Article 4, Section 4000 and Section 4053, Commercial Design Standards, which includes issues of access and egress and traffic impact. She showed examples of unsafe situations that currently existed on Shank Painter Road related to curb cuts and the public right-of-way. There is also a landscaping requirement in Section 4053, which states that a 10' landscaped buffer strip should be established to visually separate parking and other uses from the road, and be planted with medium height plant materials. The best example of this is in front of Stop-n-Shop. She briefly reviewed the other Commercial Design Standards of Section 4053 and Article 4, Section 4600, Street Trees.

Planning Board Chair Mark Weinress made a comment that the Planning Board has applied the Zoning By-Laws in regard to Shank Painter Road projects. The By-Laws carry the weight of law and it is the Planning Board's duty to adhere to those laws. All applicants were not required to comply with all the By-Laws where the Board had some discretion. The Board

tries to balance the Zoning By-Laws with the needs of the community. He stated that the BOS officially adopted the CCC recommendations for Shank Painter Road in 2011. In June, 2013, the BOS adopted the Shank Painter Road Plan as a town-wide policy goal, which the Board is supposed to follow. Dorothy Palanza said that the problems on Shank Painter Road should be addressed because it is a major road into Town and there has been an increase in bicycles in Town in the last several years.

Cheryl Andrews stated that Shank Painter Road has been studied for many years and she would like to have more discussions between the Planning Board, the BOS and staff regarding curb cuts and the public right-of-way. The BOS questioned Ms. McPherson and Mr. Weinress.

Attorney Ilana Quirk provided some legal background about what the Town can do or not do. She stated that there are public improvements requested of applicants who are subject to Site Plan Review, including within the public right-of-way. She suggested that it should be made very clear to the applicant that the implementation of any street improvements within the public right-of-way is subject to the owner of the property would get any necessary approvals or licenses from the Town. And if any curb cut is involved, a Public Hearing before the BOS is required. In addition, if there are improvements within the right-of-way, that also requires the permission of the Town. As Mr. Cannon, the public right-of-way belongs to the public and everyone has access to it. The BOS is in charge of how that happens and its permission is required if any improvements are proposed by an applicant. The reason for that is to make sure that there is a full coordination of all interests involved, such as fire, police, DPW, cable and electrical companies and water and sewer. The other reason is that whenever a private entity proposes street improvements, there should be a licensing agreement between that entity and the Town. The Town retains its right to make improvements to the infrastructure that might be underneath wherever that improvement is located. The agreement is temporary, but revocable in the sense that if the needs of the Town were to change, the Town would have the right, upon written notice to the entity, to make changes if it is deemed necessary. These licensing requirements are set forth in the General By-Laws. Site Plan Review only is used if an applicant is looking to make changes. The BOS questioned Attorney Quirk. An applicant would need to go to the BOS if the Planning Board recommended planting street trees or making a curb cut. If the permission was denied, the applicant would either not go forward with the improvements or would return to the Planning Board and ask for a modification for their proposal. She suggested that the Planning Board include in their Site Plan approval decision that involves landscaping within the public right-of-way, a paragraph at the end that tells the applicant that subject to going to the BOS and obtaining the necessary permission and curb cuts.

Public Comment: Clarence Walker asked how the Planning Board can compel a private entity to make develop the public right-of-way and to maintain it. Attorney Quirk stated that the applicant has the right to appeal the Planning Board's decision.

Jon Sinaiko commented that he patronizes the businesses on Shank Painter Road and thinks that the plantings required of the businesses that have come under Site Plan Review would disrupt the flow of traffic and there would be a loss of parking for those businesses.

David Sanford commented about the concern for large delivery trucks to maneuver and deliver their goods to businesses on Shank Painter Road. If the Town wants more businesses to locate to Shank Painter Road and make improvements, it should work with those businesses and not make unrealistic demands.

Lou Cassinelli was concerned about the loss of parking for residents that live on Shank Painter Road and the subsequent devaluation of property. He also said that there is a drainage problem on Shank Painter Road.

Mike Trovato commented about curb cuts, parking spaces and plantings on Shank Painter Road. He doesn't think that the plantings are going to work and will create a public safety hazard. He does not agree that businesses should be forced to put in plantings. The issue needs to be studied further.

Liz Athineos who is the owner of the Bike Shack at 63 Shank Painter Road spoke of her dissatisfaction with the Site Plan Review process that she went through. She ended up spending a lot of money that she didn't have on improvements required by the Planning Board.

b) **Case #FY14-20** (*continued from May 8, 2014*)

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 appeared to discuss the application

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 are being conveyed by the same owner. The original line is a dashed on the plan.

The Board briefly questioned Mr. Rogers.

There was a motion by Marianne Clements for Case #FY14-22 to endorse the 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). 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 walkway and the request was to put the walkway over Town property. She wants to put the sign where the walkway was supposed to go. If she moved the walkway to where she proposed, it would be on 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 applicant or porous brick set in sand, an option suggested by the Board. The parking area is crushed shells and the walkway was supposed to be differentiated from the parking area. The Board discussed the request. The Board decided that the applicant should comply with the original conditions of the site plan review.

- c) **Minutes of previous meetings:**
February 13, 2014: *There was a motion by Mark Weinress to approve the language as amended. The motion was seconded by Grace Ryder-O'Malley. VOTE 3-0-0.*

There was a motion by John Golden to adjourn the Planning Board meeting of May 8, 2014 at 9:30 P.M.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2014
Mark Weinress, Chair