

PLANNING BOARD
Meeting Minutes
Thursday, March 23, 2017
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Grace Ryder-O'Malley, Steven Baker and Dave Abramson.

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

Staff: Gloria McPherson, Town Planner and Ellen C. Battaglini, Permit Coordinator.

Chair John Golden called the Meeting to order at 6:35 P.M.

1. Public Comments: Gordon Siegel commented on an action taken by the Board of Selectmen in regard to a land development agreement it signed leasing the Community Center, an action that was in violation to a Town Meeting vote in 2011 to sell the building. A BOS goal had been to use the building for work force housing. Mr. Siegel alleged that the BOS had no right to enter into a lease for 99 years with a purported non-profit organization unless Town Meeting agreed to the arrangement. He went on to explain his opposition to the agreement and asked for the Planning Board's support for his position.

2. Public Hearings: Chair John Golden stated that the Board would postpone the public hearing on the proposed zoning by-law amendments and hear the continued cases.

a) **Case #FY17-14** (*continued from the meeting of March 9th*)

Application by **William N. Rogers, II, P.E. & P.L.S.**, on behalf of **Milan Realty, LLC**, requesting a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws, to construct a second floor addition for employee housing on a commercial property with a curb cut greater than 25% of its existing street frontage located at **130 Bradford Street**. Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson had sat on the case. As Mr. Quesnell was absent, Mr. Golden invoked the Mullin Rule and confirmed that he had watched a recording of the previous hearing.

Presentation: William N. Rogers, II, civil engineer, and Ken Pandya, the property owner, appeared to discuss the application. Mr. Rogers had submitted amended plans based upon the requests of the Board at the previous hearing and he reviewed the changes.

Ms. McPherson said that there were improvements that needed to be made on the property and the applicant generally does that work, however in this situation, because of the need for coordination with the Town which is doing work on abutting properties, the DPW Director, Rich Waldo, gave an estimate of the cost of the work which the applicant could put in escrow if the applicant did not want to make the improvements. The estimate was \$12,402. This project, unlike the projects on abutting properties, is contingent upon work that the Town will be doing. The Board discussed the issue with Mr. Rogers, who requested a deadline for the performance of

the work if the applicant agreed to the escrow. The Board decided upon a period of two years from the date of filing of the decision with the Town Clerk for the life of the escrow account. **Dave Abramson made a motion to grant a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws, to construct a second floor addition for employee housing on a commercial property with a curb cut greater than 25% of its existing street frontage located at 130 Bradford Street with the condition that the applicant fund an escrow account in the amount of \$12,500 to for a period of two years from the filing of the Special Permit decision with the Town Clerk, after which any unused money will be returned to the applicant. Steven Baker seconded the motion. VOTE: 5-0-0.** Steven Baker will write the decision.

b) **Case #FY17-17** (continued to the meeting of April 27th)

Application by **TMC New England, LLC c/o T.M. Crowley & Associates**, on behalf of **Riley Brothers Realty, LLC**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (4), Site Plan Review by Special Permit, of the Zoning By-Laws for exterior building, sidewalk, landscaping and parking improvements on a commercial property with a curb cut greater than 25% of its existing street frontage located at **132 Bradford Street**. Ms. McPherson explained that the matter was continued to the April 27, 2017 Public Hearing at 6:30 P.M. at the previous hearing, however the public hearing will be opened again on March 30, 2017.

c) **Case #FY17-18** (continued from the meeting of March 9th)

Application by **Chad, LLC** and **Villa, LLC** requesting a Site Plan Review pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws to amend a previously-approved site plan for the property located at **336R Commercial Street**. There was a request from the applicant to continue to the meeting of April 27 or May 11, 2017. The Board decided to continue the case until April 27, 2017. **Steven Baker made a motion to continue Case #17-18 to the April 27, 2017 Public Hearing at 6:30 P.M. Grace Ryder-O'Malley seconded. VOTE: 4-0-0.**

d) **PLN-17-20** (continued from the meeting of March 9th)

Application by **Christopher D. Wise**, on behalf of **Coastal Acres Properties, LLC**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (5), Site Plan Review by Special Permit, of the Zoning By-Laws for the upgrading of an electrical system, including the installation of meter pedestals and electric packs, and the extension of a line of service to meter sites, which requires trenching and earth moving of more than 750 cu. yds. at the property located at **76R Bayberry Avenue**. There was a request from the applicant to continue to the meeting of April 6, 2017. Since there is no meeting scheduled for that date, the Board will continue to the meeting of April 13, 2017. **Grace Ryder-O'Malley made a motion to continue PLN 17-20 to the April 13, 2017 Public Hearing at 6:30 P.M. Dave Abramson seconded. VOTE: 4-0-0.**

e) **PLN-17-21** (postponed from the meeting of March 9th)

Application by **Scott N. Adams, Advanced Engineering Group, P.C.**, on behalf of **7-Eleven, Inc.**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, a (5), Site Plan Review by Special Permit, of the Zoning By-Laws for exterior improvements on a

commercial property with a curb cut greater than 25% of its existing street frontage, including realigning an existing curb gutter line, replacement of a bike rack, re-striping an existing parking lot and the installation of a 4' wide sidewalk with granite curbing, a crosswalk striping across curb cuts, landscape plantings, composite traffic dividers, two additional light poles, two street trees and an additional handicap ramp within a proposed sidewalk at the property located at **137 Bradford Street**. John Golden, Grace Ryder-O'Malley, Steven Baker and Dave Abramson sat on the case.

Presentation: Attorney Robin B. Reid, representing the applicant, John Connell, from 7-Eleven, Scott Adams, from Advanced Engineering Group. Attorney Reid requested that given there were only 4 Board members seated on the matter, and in order to be granted a Special Permit the decision of the Board would have to be unanimous, the Chair poll the Board before a vote is taken and permit the applicant to withdraw without prejudice depending upon the results of the polling. The Board agreed to the request.

Attorney Reid introduced the project. There will be no changes or intensification of use of the property. The convenience store use will remain. The only change has been completed and that involved the removal of the gas facilities. This proposal does not involve a change of use or an addition to the use, nor greatly intensify the use. Temporary barriers have been placed at the property pending the outcome of the site plan review.

Mr. Adams reviewed the site plan. The lot measures 16,400 sq. ft., 2300 sq. ft. of which is in the Town right-of-way easement. On the lot is a single-story convenience store measuring 2400 sq. ft. with 13 parking spaces along the front side of the building. There is one existing light pole that is malfunctioning and a newer light pole that was placed there in the past year or so. The high point is the northern corner and slopes down to Freeman and Standish Streets. There are no drainage structures on the site. There is minimal landscaping on the site currently. The parking configuration will remain the same and no re-grading or re-paving is proposed. 260 linear feet of sidewalk is being proposed along the right-of-way edge, composed of 3' of bituminous material with a 6" vertical curb and a net increase of 232 sq. ft. of landscaped area that will include two street trees and 140 other plants and groundcover. Re-aligning the gutter line of Standish Street and turning it from a yield into a soft stop finishing and the two lanes will be 12' minimum width. The southern most curb cut will be turned into a right turn in and turn out only and adding composite traffic dividers to the median. The northernmost curb cut is going to be fully directional and be moved 6-8' down from its existing position to align with the curb cut across the street. There will be an entrance-only curb cut for large delivery vehicles to get them off the road. The crosswalk to 132 Bradford will be re-located by others and tie into the handicapped ramps and signage. Two additional light poles are proposed that will meet the illumination requirements. He addressed a complaint from an abutter about light pollution from the existing pole on the property. He said that the site plan represents both safety and visual improvements over the existing site. He said there would be a net increase in impervious surfaces on the site and there will be no changes to the lighting on the existing building, however the light pole will be brought into conformity in terms of height and dark-sky compliant light fixtures and will be in conformity with Article 3, s. 3430. There is an encroachment by the Town of approximately 1000 sq. ft. on the applicant's property

The Board questioned Mr. Adams and Attorney Reid. The Board requested that the sidewalks be concrete, or brick set in concrete, not bituminous as proposed and of a width of 4' 6" with a 6" curbing, for a total of 5', with granite curbing. Mr. Adams said that this would either take away from the green space and impact the turnaround area for vehicles on the site and would also impact the area designated for large delivery trucks or encroach further into the traffic lane in that area. The Board discussed the issue. The Board suggested highlighting the crosswalks for greater visibility. Mr. Adams said he would provide some options.

Attorney Reid reviewed the Special Permit criteria in Article 4, s. 4035, arguing that that the project was consistent with the goals and policies of the Local Comprehensive Plan, s. 4053, and the requirements of s. 4163 and Article 5, s. 5331. She stated that the proposal dramatically improves the safety of the intersection and along Bradford Street and the contributions that the applicant is willing to make, including adding barriers to the island and pulling back on the curb line as it comes out of Freeman Street. In addition, the removal of the gas facilities will lessen the environmental impact of the site and improving the landscape and adding to the green space. She requested a waiver of the traffic impact study, as the applicant contends that with the removal of the gas facilities the motor vehicle traffic to the site will decrease and any increase in traffic in the intersection will be the result of the proposed project at 132 Bradford Street. 5% of the setback areas will be landscaped and the applicant will hire a landscaper to maintain the vegetation on the site. Other waivers requested are from s. 4053, 1a and 1b, s. 4600, as only 2 street trees will be planted instead of the required 5, s. 4053, 2d and s. 4150, as the green area is less than 30%.

The Board further questioned Attorney Reid and Mr. Adams about the location of the bike rack on the site. The Board requested that the air station be moved out of the handicapped space and to mark the location of trash and recycling bins, curbing around the island next to the bike rack, add curb radii to the site plan. The Board confirmed its request that the sidewalk width should be increased by 1' on the Standish Street section. Attorney Reid said that options would be provided. Attorney Reid summarized the Board's requests:

- Options for widening sidewalk on Standish Street side by making the two traffic lanes each 11.5' wide instead of the proposed 12' wide;
- Sidewalks made of concrete with granite curbing;
- Trash and recycling cans noted on the site plan;
- Air station moved or removed;
- Dimensions on the pole light;
- Curbing on the island next to the bike rack;
- Options for crosswalk painting and something across the front of the building where the six parking spaces are located;
- Shortening the sidewalk at the northeast corner of the lot, close to Jonathan Williams;
- Curb radii noted on the site plan; and
- Building light, existing light pole and the two proposed light poles will have dark-sky compliant fixtures.

A motion was made by Dave Abramson to continue PLN17-21 until the April 13, 2017 Public Hearing at 6:30 P.M. Steven Baker seconded. VOTE: 4-0-0.

a) Proposed Zoning Bylaw Amendment

Discussion of proposed amendment to Article 1, Definitions, of the Provincetown Zoning Bylaw (ATM Warrant Article 30). *There was a motion by Dave Abramson to recommend Article 30 of the Town Meeting warrant. Steven Baker seconded. VOTE: 3-0-1 (Grace Ryder-O'Malley abstaining).*

b) Proposed Zoning Bylaw Amendment

Discussion of proposed amendment to bylaw to Article 1, Definitions, of the Zoning Bylaws (ATM Warrant Article 31). *There was a motion by John Golden to recommend Article 31 of the Town Meeting warrant. Dave Abramson seconded. VOTE: 3-0-1 (Grace Ryder-O'Malley abstaining).*

c) Proposed Zoning Bylaw Amendment

Discussion of proposed amendment to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, of the Provincetown Zoning Bylaw (ATM Warrant Article 32). *There was a motion by Grace Ryder-O'Malley to recommend Article 32 of the Town Meeting warrant. Dave Abramson seconded. VOTE: 4-0-0.*

d) Proposed Zoning Bylaw Amendment

Discussion of proposed amendment to Article 4, Special Regulations, Section 4120, Density Schedule, of the Provincetown Zoning Bylaw (ATM Warrant Article 33). *There was a motion by Dave Abramson to recommend Article 33 of the Town Meeting warrant. John Golden seconded. VOTE: VOTE: 3-0-1 (Grace Ryder-O'Malley abstaining).*

e) Proposed Zoning Bylaw Amendment

Discussion of proposed amendment to Article 3, General Requirements, Section 3110, Change, Extensions or Alterations, of the Provincetown Zoning Bylaw (ATM Warrant Article 34). *There was a motion by Dave Abramson to recommend Article 34 of the Town Meeting warrant. John Golden seconded. VOTE: VOTE: 3-0-1 (Grace Ryder-O'Malley abstaining).*

f) Proposed Zoning Bylaw Amendment

Discussion of the proposed amendment to Article 4, Special Regulations, Section 4810, Inclusionary and Incentive Zoning Bylaw and corollary amendments of the Provincetown Zoning Bylaw (ATM Warrant Article 29). *There was a motion by Grace Ryder-O'Malley to recommend Article 29 of the Town Meeting warrant. Steven Baker seconded. VOTE: 4-0-0.*

g) Petitioned Warrant Articles Related to Land Use and Development

Discussion of Article 13: *Zoning Amendment Regarding Detached Structures. (A Non-binding Resolution)*. To see if the Town shall instruct the planning board to work with all other relevant boards and committees to develop zoning and other related bylaw changes, additions, or deletions and return to the next town meeting with articles that allow for detached structures to be used as detached bedrooms for workforce housing use, and/or find other ways that bylaws can be modified to allow for workforce housing use both

seasonal and year-round; or to take any other action relative thereto. *There was a motion by Steven Baker to make no recommendation regarding Petitioned Article 13. Dave Abramson seconded. VOTE: 4-0-0.*

3. Work Session:

- a) **Annual Board Organization:** Postponed.
 - i) Election of Chair
 - ii) Election of Vice Chair
- b) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan:** Postponed.
- c) **Discussion of planting list** (placeholder)
- d) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder)
- e) **Minutes of April 23rd, August 27th and October 22, 2015, January 14th, March 24th, April 28th, June 9th, December 8, 2016 and January 31, February 23 and February 28, 2017 meetings.**

February 28, 2017: *There was a motion by Grace Ryder-O'Malley to approve the minutes as amended. Steven Baker seconded. VOTE: 5-0-0.*

- f) **Any other business that may properly come before the Board:**
 - Ms. Ryder-O'Malley raised an issue about erosion at 164 Bradford Street Extension. The Board had other questions about the landscaping. There will be a site visit scheduled.
 - Mr. Abramson raised an issue about the former Ronnie White property at 65 Franklin Street the lack of silt fencing after the demolition was performed and whether there was earth-moving of more than 750 cu. yds.
 - Ms. Ryder-O'Malley also raised an issue about the installation of illegal parking spaces at 52 Creek Road.

There was a motion by Dave Abramson to adjourn the Planning Board meeting at 9:00 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2017
John Golden, Chair