

PLANNING BOARD
Meeting Minutes
Thursday, August 10, 2017
Judge Welsh Room
6:30 P.M.

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

Members Absent: John Golden (excused) and Brandon Quesnell (excused).

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

Vice Chair Grace Ryder-O'Malley called the Meeting to order at 6:30 P.M.

1. **Public Comments:** Cathy Kucinkas voiced her concerns regarding the height of a structure that is part of the project, to which she is an abutter, at 350 Bradford Street.

2. **Discussion with Rik Ahlberg, Bike Committee Chair, and Gloria McPherson, Town Planner, regarding draft Complete Streets Policy:**

Mr. Ahlberg reviewed the Policy and, along with Ms. McPherson, discussed the issue with the Board.

There was a motion by Steven Baker to endorse the draft Complete Streets Policy. Ryan Campbell seconded. VOTE: 4-0-0.

3. **Public Hearings:**

a) **PLN 17-30** (*request to continue to the meeting of August 10th*)

Application by **E. James Veara, Esq.**, on behalf of **Lori E. Riley** and **Jeffrey A. Medeiros**, for Site Plan Approval pursuant to Article 2, Districts and District Regulations, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws to construct a new dwelling at the property located at **24 Ship's Way Road**. Grace Ryder-O'Malley, Ryan Campbell, Steven Baker and Dave Abramson sat on the case.

Attorney Lester J. Murphy, representing the applicants, Bob Freeman, the surveyor/site designer, Gordon Peabody, of Safe Harbor Environmental, and Lori Riley and Jeff Medeiros appeared to discuss the application. Attorney Murphy thanked the Board for attending a site visit earlier in the day. He had submitted a plan showing a slight revision in the location of a utility line. He reviewed the site plan and the project and said that the applicants had considered re-orienting the structure on the lot, as had been suggested by the Board. He explained the issues that it raised and why that idea was not feasible and that the original orientation was the best alternative for the reasonable development of the site. Mr. Freeman explained how he designed the structure to suit the topography of the site. Attorney Murphy then reviewed the Board's standards for high elevation construction activity. He said that Mr. Peabody would be concerned with the issues of slope stabilization, re-vegetation, erosion control and protection of the environment at the site and argued that it would be more stable and better vegetated than it is today. Mr. Peabody briefly commented on his role in the project and reviewed the material he had submitted related to steep slope stabilization systems and maintaining their performance standards.

There were 2 letters in the file, one of which was concerned about the effect of construction vehicles on Ship's Way Road Extension when accessing the site and by vehicles once the structure is built, and the other that was opposed to the use of Ship's Way Road Extension for access to the construction site and the potential disruption in access for abutters.

The Board questioned Attorney Murphy, Mr. Peabody and Mr. Freeman. The Board was concerned about the use of Ship's Way Road Extension as access for a north parking lot on the site. Attorney Murphy offered the possibility of eliminating the parking area and re-vegetating the area instead. The Board requested that the site plan indicate which trees were to remain and which were to be removed and that the north parking area be eliminated from the project. Attorney Murphy requested a continuance to the September 14, 2017 Public Hearing at 6:30 P.M.

There was a motion by Steven Baker to grant the request to continue PLN 17-30 to the Public Hearing of September 14, 2017 at 6:30 P.M. Dave Abramson seconded. VOTE: 4-0-0.

b) **PLN 17-33** (*request to continue to the meeting of August 10th*)

Application by **Mass Organic Therapy, Inc.**, on behalf of **Fifth Gear Realty Trust, Karen R. DePalma, Trustee**, requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, D7, Medical Marijuana Treatment Center, of the Zoning By-Laws to operate a medical marijuana treatment center at the property located at **2 Harry Kemp Way, Unit 2**.

c) **PLN 17-34** (*request to continue to the meeting of August 10th*)

Application by **Mass Organic Therapy, Inc.**, on behalf of **Fifth Gear Realty Trust, Karen R. DePalma, Trustee**, for Site Plan Approval pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of the structure from a professional office to a medical marijuana treatment center and to make associated site improvements at the property located at **2 Harry Kemp Way**. Grace Ryder-O'Malley has recused herself from these two cases. There was a request from the applicant to continue PLN 17-33 and PLN 17-34 to the Public Hearing of September 28, 2017. ***There was a motion by Steven Baker to grant the request to continue PLN 17-33 and PLN 17-34 to the Public Hearing of September 28, 2017 at 6:30 P.M. Ryan Campbell seconded. VOTE: 3-0-0.***

d) **PLN 17-35** (*request to continue to the meeting of August 10th*)

Application by **Heal, Inc.**, on behalf of **94 Harry Kemp Way Revocable Trust, William Gately, Trustee**, requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, D7, Medical Marijuana Treatment Center, to operate a medical marijuana treatment center at the property located at **94 Harry Kemp Way**.

e) **PLN 17-36** (*request to continue to the meeting of August 10th*)

Application by **Heal, Inc.**, on behalf of **94 Harry Kemp Way Revocable Trust, William Gately, Trustee**, requesting Site Plan Approval pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-laws for a change in use from a funeral home to a medical marijuana treatment center at the property located at **94 Harry Kemp Way** with waivers from Article 4, Sections 4053(1)(a), curb cut width and number per business, 4053(2)(d), Screening of loading areas, 4163(2), Curb radii, Minimum width of traveled surface area, 4600, Street tree and Article 5, Section 5331, Submission of Development Impact Statement. Grace Ryder-O'Malley has recused herself from these two cases. There was a request from the applicant to continue PLN 17-35 and 17-36 to the Public Hearing of August 24, 2017.

There was a motion by Ryan Campbell to grant the request to continue PLN 17-35 and PLN 17-36 to the Public Hearing of August 24, 2017 at 6:30 P.M. Dave Abramson seconded. VOTE: 3-0-0.

3) **Work Session:**

a) **PLN 18-01**

Application by **Heal, Inc.**, on behalf of **William Gately, Trustee, 94 Harry Kemp Way Realty Trust**, for the endorsement of a plan believed not to require approval (ANR) at the property located at **94 Harry Kemp Way (Assessor's Map 13-4, Parcel 2)** in accordance with M.G.L. c. 41 s. 81P. Grace Ryder-O'Malley recused herself because of a conflict of interest.

Attorney Christopher J. Snow, an abutter, raised a point of order. He argued that plan submitted by the applicant was a perimeter plan and was thus ineligible for consideration under M.G.L. c. 41, s. 81P because the plan showed no division of a lot. He recommended that the Board get an opinion from Town Counsel regarding the issue before it endorsed the ANR plan.

John McElwee appeared to present the application. He briefly reviewed the ANR plan and requested that the Board endorse it. Ms. McPherson read an email from Town Counsel explaining that submitting perimeter plans for endorsement was an allowed practice and the Board could endorse the perimeter plan in order to obtain a three-year use freeze. He said that several Courts have upheld this right of property owners and as long as the perimeter plan satisfied the lot size required, had adequate frontage and didn't show a subdivision the Board could endorse it.

Attorney Snow spoke against the endorsement.

The Board discussed the issue. Ms. McPherson reviewed M.G.L. c. 41, s. 81P and 81X and noted that the Board had 21 days to endorse the ANR plan as long as it did not show a subdivision. The Board requested another opinion on the issue from Town Counsel. Ms. McPherson will follow up with Town Counsel. The Board scheduled a Special Meeting to re-consider the request on Tuesday, August 15th at 10:00 A.M.

There was a motion by Dave Abramson to continue PLN 18-01 until the Special Meeting on Tuesday, August 15, 2017 at 10:00 A.M. Steven Baker seconded. VOTE: 3-0-0.

b) **PLN 18-02**

Application by **William N. Rogers, II**, on behalf of **GS Ptown, LLC et. al.**, for the endorsement of a plan believed not to require approval (ANR) to create two lots, one conforming and one non-conforming, the non-conforming of which will be conveyed to the Provincetown Art Association and Museum at the property located at **466 Commercial Street (Assessor's Map 12-4, Parcel 48)** in accordance with M.G.L. c. 41 s. 81P. Grace Ryder-O'Malley recused herself because of a conflict of interest.

Attorney Christopher J. Snow and William N. Rogers, II, P.E., P.L.S., appeared to present the application. Mr. Rogers reviewed the ANR plan.

There was a motion by Steven Baker to endorse PLN 18-02 for a plan believed not to require approval (ANR), to create two lots, one conforming and one non-conforming, the non-

conforming of which will be conveyed to the Provincetown Art Association and Museum at the property located at 466 Commercial Street (Assessor's Map 12-4, Parcel 48) in accordance with M.G.L. c. 41 s. 81P. Dave Abramson seconded. VOTE: 3-0-0.

c) Pending Decision:

PLN 17-20 (Steven)

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**. Steven Baker read the decision and the Board suggested revisions. *There was a motion by Ryan Campbell to approve the language as revised. Grace Ryder-O'Malley seconded. VOTE: 3-0-0.*

d) **Election of a Planning Board member to serve on the Tree Advisory Group:**
Tabled.

e) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan** (placeholder). Tabled.

c) **Discussion of planting list** (placeholder). Tabled.

d) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder). Tabled.

e) **Minutes of April 23rd, August 27th and October 22, 2015, January 14th, March 24th, April 28th, June 9th, December 8, 2016, June 8, June 22 and July 27, 2017.**

June 8, 2017: *There was a motion by Dave Abramson to approve the minutes as amended. Steven Baker seconded. VOTE: 3-0-0.*

June 22, 2017: *There was a motion by Dave Abramson to approve the minutes as amended. Ryan Campbell seconded. VOTE: 3-0-0.*

July 27, 2017: *There was a motion by Dave Abramson to approve the minutes as amended. Ryan Campbell seconded. VOTE: 3-0-0.*

f) **Any other business that may properly come before the Board:** Ms. McPherson said that she had visited 20 Pleasant Street to determine if the project at the site was in compliance with its Planning Board conditions. She reviewed the discrepancies with the approved plan and said that the site looked good and the changes were improvements, however she noted that 3 of 4 existing trees on the site had been removed. The developer's representative, Lyn Plummer, indicated that the Tree Warden had approved the removal of the trees, even though they were not in a public way. Ms. Plummer agreed to plant a cherry in addition to an oak tree on the property.

The Board discussed the issue and siting a third tree on the site. The Board would like to invite Ms. Plummer and the Tree Warden to the Planning Board meeting.

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