

PLANNING BOARD
Meeting Minutes
Thursday, October 26, 2017
Judge Welsh Room
6:30 P.M.

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

Members Absent: None.

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:

None.

2. Public Hearings:

a) **PLN 17-30**

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**. Chair John Golden invoked the Mullin Rule in order to sit on the case. John Golden, Grace Ryder-O'Malley, Dave Abramson, Steven Baker and Brandon Quesnell sat on the case.

Attorney Lester J. Murphy, representing the applicants, and Lori E. Riley and Jeffrey A. Medeiros appeared to discuss the application. Attorney Murphy said that the changes made to the project involved the removal of the parking area on Ship's Way Road Extension. He said that the Board had issues about the landscape plan, specifically about the removal and replacement of trees, additional plantings, the adequacy of the number of shade trees proposed to be planted along Ship's Way Road and plantings on the left side of the driveway. A revised landscape plan has been submitted to address these issues showing a substantial amount of landscaping additions to the site and there is a narrative on the plan to indicate what plantings will be retained, what will be removed and what is being added. He reviewed the changes to the landscape plan.

The Board questioned Attorney Murphy and discussed conditions, including that any significant change in the landscape plan would have to be documented by a revised plan submitted to the Town Planner and approved by the Board.

There was a motion by Dave Abramson to approve the site plan 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. Steven Baker seconded and it was so voted, 4-1-0 (Brandon Quesnell opposed).

b) **PLN 17-33**

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**

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, Unit 2**. The Board heard case PLN 17-33 and 17-34 together. Grace Ryder-O'Malley recused herself because of a conflict of interest and exited the room. John Golden, Steven Baker, Brandon Quesnell, Dave Abramson and Ryan Campbell sat on both cases.

Presenters were Attorney Lester J. Murphy, representing the applicant, Patrick Jonsson, CEO of Mass Organic Therapy, Inc., Christopher J. Snow, representing the owner of the unit, Karen DePalma, Colleen Medeiros, traffic engineer with McMahan & Associates, and Stephanie Sequin, an engineer with Ryder & Wilcox. Attorney Murphy brought the Board up to date on new submissions of material. He said that the last time the Board reviewed the project it had issues related to traffic around and to the site, vehicular and pedestrian access to the site and parking on the site. In particular, the Board was concerned about access to the spaces in front of the building and the ability for vehicles to exit those spaces without having to back out onto Harry Kemp Way in contravention of a Special Permit granted to the property. He proceeded to explain how his client would address those issues. Several traffic schematics had been submitted by Ms. Sequin, one of which showed how that access could work, however as a result, the number of parking spaces would have to be reduced to nine from eleven. He reviewed an existing Special Permit that precluded vehicles having to back out onto Harry Kemp Way. He argued that traffic would not present a problem for neighbors, as during the summer season, all employees would park at the Riley Bros. parking lot, which is a short distance away from the site. In addition, a parking guard would be hired during the summer season to handle any potential parking issues and guide vehicles on site, making sure that customers only are utilizing the parking spaces. The number of vehicles would be controlled by the fact that patients would be handled by appointment only at the facility and each appointment would last only 6-7 minutes. A website for the facility will provide directions to and explain how to access and park at the site. Also submitted was proposed signage to be placed on the site directing patients who access and egress the site how the flow of vehicles operates. A vehicle would access the site on the northerly end at Harry Kemp Way, proceed through the common right-of-way to the parking spaces and then exit out on Conwell Street. Attorney Murphy reviewed the right-of-way agreement between the owners of the site and the abutting business regarding the access road between the two. He emphasized that his client is intent upon operating a safe and responsible medical marijuana facility on the site, including providing sufficient, safe, controlled and regulated parking for customers, and, he added, would agree to a condition that would enable the Board to revisit the business after a year or two of operation to evaluate whether any problems have arisen. He argued that the project meets all the criteria for a Special Permit.

Attorney Snow reviewed the proposed use of the building in terms of what benefits would accrue to the Town and the neighborhood if the project were approved. He contended that the building has had two commercial uses for the past 30 years and never had a problem with traffic or parking. Mr. Johnson informed the Board that the business had reached an agreement with John Medeiros who owns the other condominium in the building, as this had been a question at the last hearing.

David Nicolau spoke in favor of the application. Jeff Rogers, an owner of the abutting property, and Attorney Ben Zehnder, representing Charlie Rogers, an owner of the abutting property, spoke in opposition to the application. Jeff Rogers also read a letter written by Charlie Rogers. Attorney Snow rebutted the opposition arguments. Ms. Medeiros addressed potential issues related to the flow of traffic on the right-of-way in response to the Board's inquiries.

The Board questioned the applicant's representatives about the parking and access issues and discussed the project. Conditions related to the approval of the project were proposed.

There was a motion by Steven Baker to grant the 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 and to approve the site plan 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. Unit 2 with the following conditions:

- *customer visits shall be by appointment only and no walk-ins shall be allowed;*
- *employees shall park off-site from June through September;*
- *a parking attendant to direct traffic shall be on site from June through September;*
- *all deliveries shall be before or after business hours so as not to block the easement or utilize parking spaces during business hours;*
- *parking spaces shall be designated by pavers within the site and measure, at a minimum, 8' by 18';*
- *two parking spaces shall be designated for Unit #1;*
- *all existing and proposed lighting shall be dark sky compliant and in conformity with Article 3, Section 3430, Illumination Standards, of the Zoning By-Laws with replacement of fixtures that are dark sky compliant as necessary;*
- *all security and flood lighting shall be motion-activated;*
- *the hours of operation for the facility shall be 9:00 A.M. – 7:00 P.M. Monday through Saturday and 10 A.M. – 2:00 P.M. on Sunday;*
- *a review of traffic and safety associated with the operation shall be scheduled with the project applicant and/or owner, their engineer, the Town Planner, the Dept. of Public Works Director and the Chief of Police and shall take place at 12 and 24 months after receipt of a Certificate of Occupancy and a report shall be provided to the Planning Board by the applicant and/or owner, or their engineer, outlining any issues discussed and any recommended changes to address the issues and the Planning Board shall determine whether any agreed-upon changes are within the scope of this approval or will require the filing for an amendment to the approved Special Permit;*

- *this Special Permit does not apply to the sale of recreational marijuana and the applicant shall return to the Planning Board for a new Special Permit for any future sales of recreational marijuana; and*
- *the site plan shall be revised to show two-way travel on the right-of-way access between the subject property and the commercial property abutting it.*

Ryan Campbell seconded. VOTE: 4-1-0 (Brandon Quesnell opposed).

Waivers requested by the applicant were reviewed.

There was a motion by Ryan Campbell moved to grant the waivers requested by the applicant, Article 4, Sections 4150 and 4163 (2) and (3). Steven Baker seconded. VOTE: 4-1-0 (Brandon Quesnell opposed). Steven Baker will write the decision.

d) PLN 18-03

Application by **Katherine J. Frischmuth** requesting a Site Plan Review pursuant to Article 2, Districts and District Regulations, Section 2320 (A) & (B), High Elevation Protection District, of the Zoning By-Laws to construct a new 3' by 10' balcony and replace a 13' by 28' roof deck and expanded stairs on the structure located at **6 Upper Miller Hill Road**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case. There was a request by the applicant to continue to the meeting of November 9, 2017 at 6:30 P.M. ***There was a motion by Steven Baker moved to grant the request to continue PLN 18-03 to the November 9, 2017 Public Hearing at 6:30 P.M. Dave Abramson seconded. VOTE: 5-0-0.***

e) PLN 18-06

Application by **612-614 Palmer, LLC, Jim Savko, Manager**, on behalf of **Sue Harrison** and **Leslie Brock**, requesting a Site Plan Review pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws to create two new dwelling units, replace a stockade fence, remove a garage and construct a larger garage in a new location and complete other site improvements at the property located at **16 Holway Avenue**, with a requested waiver from Article 4, Section 4163(3).

f) PLN 18-07

Application by **612-614 Palmer, LLC, Jim Savko, Manager**, on behalf of **Sue Harrison** and **Leslie Brock**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4180, Inclusionary and Incentive By-Law, of the Zoning By-Laws to create two new dwelling units and proposing a payment in lieu of creating a partial affordable unit at the property located at **16 Holway Avenue**. The Board heard PLN 18-06 and 18-07 together. Steven Baker recused himself from both cases because of a conflict of interest. John Golden, Grace Ryder-O'Malley, Ryan Campbell, Brandon Quesnell and Dave Abramson sat on both cases.

Attorney Christopher Fiset, representing the applicant, Jim Savko, the applicant, and Kevin Bazarian, the contractor, appeared to discuss the application. Attorney Fiset said that an existing conditions plan and a proposed revised site plan showing the retention of more large trees and a re-configuration of structures and parking had been submitted as requested by the Board. Also provided was a site plan showing a 4-bedroom capacity septic system without variances and drawn by a licensed engineer, also as requested by the Board. He reviewed the project, which

involves taking a four-bedroom structure and reducing it to two bedrooms, removing and replacing an existing garage and building two new one-bedroom structures on the site. He added that this is a project that is eligible for approval under the new Inclusionary By-Law.

The Board reviewed the new material and questioned Attorney Fiset. The Board requested a revised site plan showing the location of trash and recycling receptacles, the actual location of Holway Avenue entering the site and a reduced driveway width to 10'. The Board questioned the applicant regarding the landscape plan and requested a new landscape plan that is accurate in regard to the site plan as revised and showing native plantings and the material for the driveway.

There was 1 letter with concerns regarding access over frontage and questions about whether the Fire Dept. has weighed in on the project, about the lot coverage and if the hypothetical septic plan was accurate.

There was a motion by Brandon Quesnell to approve a site plan pursuant to Article 4, Special Regulations, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws to create two new dwelling units, replace a stockade fence, remove a garage and construct a larger garage in a new location and complete other site improvements, to grant the requested waiver from Article 4, Section 4163(3) and to grant a Special Permit pursuant to Article 4, Special Regulations, Section 4180, Inclusionary and Incentive By-Law, of the Zoning By-Laws to create two new dwelling units and proposing a payment in lieu of creating a partial affordable unit at the property located at 16 Holway Avenue with the condition that a revised plans be submitted to the Planning Dept. for Planning Board endorsement showing:

- *the location of trash and recycling receptacles;*
- *a reduced driveway width from 18' to 10';*
- *the actual location of Holway Avenue entering the site;*
- *landscaping and all retained trees;*
- *driveway materials;*
- *applicant shall make a partial payment in lieu for the creation of two new units in accordance with the formula in Article 4, Section 4180 4. (a) (1).*

Ryan Campbell seconded. VOTE: 5-0-0. Grace Ryder-O'Malley will write the decision.

g) **PLN 18-08**

Application by **Stephen Baker** requesting Site Plan Review pursuant to Article 2, Districts and District Regulations, Section 2320(A), High Elevation Protection District, of the Zoning By-Laws to construct a two-story atrium addition on a structure and a one-story shed addition for storage at the property located at **39 Pearl Street**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case.

Stephen Baker appeared to present the application. He reviewed the project, which involves filling in a courtyard/paved patio area with an atrium for access to the second floor and enclosing an area beneath a deck to provide storage on the site.

There was no public comment and no letters in the file.

The Board questioned Mr. Baker. The exterior lighting issue was raised and the Board requested dark sky compliant lighting fixtures be installed. Also, if any fixtures need upgrading in the future that dark sky compliant ones are installed and that downspouts on the structure are directed to landscaped areas.

There was a motion by Brandon Quesnell to approve the site plan pursuant to Article 2, Districts and District Regulations, Section 2320(A), High Elevation Protection District, of the Zoning By-Laws to construct a two-story atrium addition on a structure and a one-story shed addition for storage at the property located at 39 Pearl Street with the conditions that all exterior light fixtures are dark sky compliant, with existing fixtures to be upgraded as necessary, and that all downspouts are directed to landscaped areas. Steven Baker seconded. VOTE: 5-0-0.

h) **PLN 18-09**

Application by **Steven H. Cook**, on behalf of **KIP Financial, LLP**, requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws to add a principal structure and create four residential units in two structures, re-configure parking spaces, replace a wire fence with a stockade fence and to make other site and landscape improvements on the property located at **446 Commercial Street**. John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Dave Abramson sat on the case.

Attorney Christopher Fiset, representing the applicant, Steven Cook, the architect, Jim Savko, the applicant, and Kevin Bazarian, the contractor, appeared to present the application. Mr. Cook reviewed the project, which includes the renovation of a five-bedroom main structure with decking and removing a bedroom, the construction of a one-bedroom, one-and-a-half story cottage and the re-configuration of parking on the site. The parking, as proposed, will provide 2 spaces per unit and 6 guest spaces. A new retaining wall and fence will be constructed on the west property line. New walkways and grass areas will be added to the site. He said that the architecture of the new cottage would be consistent with that of the neighborhood.

Jane Larssen, Christine Walker, Joe Griffiths, all abutters, had concerns about the project related to the large number of parking spaces and the possibility of selling or renting several of the spaces to people who live off-site, the potential for an increase in traffic on the small private way accessing the site and the landscaping. There was 1 letter in opposition to the project and 4 letters with concerns and questions about the project.

The Board questioned Mr. Cook and Mr. Savko and discussed the project, making recommendations to address the abutters' concerns, including reducing the number of parking spaces, converting two of the spaces into tandem spaces and increasing the green space on the site by eliminating several other spaces. The Board agreed that the sale or renting of parking spaces would be prohibited, the hedge on the south side of the property would remain, the parking spaces on the west side of the property should be pulled back from the lot line to the east and that a fence and hedge above the proposed retaining wall on the western side of the site would be installed. In addition, two parking spaces could be replaced by green space, one on the north side of this area and one in front of the existing structure. The Board requested cut sheets for the proposed exterior light fixtures, that a bike rack be installed on site and that the utilities to Unit #4 would be placed

underground. A new landscaping plan was requested showing a reduction in the area of grass and parking spaces, the location of existing and new trees and the retention of the hedge on the south side of the property. In addition, the trash and recycling bin and the bike rack locations must be noted and the architecture of the new cottage shall match that of the main structure, regarding windows, siding, etc.

There was a motion by Grace Ryder-O'Malley to continue PLN 18-09 to the November 9, 2017 Public Hearing at 6:30 P.M. Dave Abramson seconded. VOTE: 5-0-0.

i) PLN 18-10

Application by **William N. Rogers, II**, on behalf of **Sharon Pollack** and **Corinne LeGoff**, requesting a Site Plan Review pursuant to Article 2, Districts and District Regulations, Section 2320 (A), High Elevation Protection District, of the Zoning By-Laws to remove a first floor deck, construct a garage under an existing entry deck, construct a dormer and extend a loft area, add a second floor deck over an existing first floor deck and replace all windows, doors and siding on the structure located at **16 Creek Round Hill Road**. Staff recommends that this application be postponed. ***There was a motion by John Golden to postpone PLN 18-10 to the November 9, 2017 Public Hearing at 6:30 P.M. Grace Ryder-O'Malley seconded. VOTE: 5-0-0.***

3) Work Session

a) PLN 18-12

Application by **Christopher Fiset** on behalf of **Donald & Robert Fiset**, for the endorsement of a plan believed not to require approval (ANR) at the property located at **168 Bradford Street Extension (Assessor's Map & Parcels 6-3-50-E-101 and 102)** and **170 Bradford Street Extension (Assessor's Map & Parcels 6-3-50-H 303-305)** for an adjustment to eliminate a lot line and create one parcel where two parcels now exist in accordance with M.G.L. c. 41, s. 81P.

Attorney Christopher Fiset and Pavel Fiodarau appeared to present the application. Attorney Fiset reviewed the ANR plan.

There was a motion by Dave Abramson to endorse the plan believed not to require approval (ANR) at the property located at 168 Bradford Street Extension (Assessor's Map & Parcels 6-3-50-E-101 and 102) and 170 Bradford Street Extension (Assessor's Map & Parcels 6-3-50-H 303-305) for an adjustment to eliminate a lot line and create one parcel where two parcels now exist in accordance with M.G.L. c. 41, s. 81P. Steven Baker seconded. VOTE: 5-0-0.

b) Sign Heal, Inc. revised Special Permit decision and plans.

c) Election of officers: Tabled.

i. Chair

ii. Vice Chair

d) Discussion regarding Board communication and meeting length. Tabled.

e) **Pending Decision:**

PLN 18-04 (Brandon)

Application by **Edward M. Roche**, on behalf of **MEILI, LLC**, requesting a Site Plan Review pursuant to Article 4, Special Regulations, Section 4015, Site Plan Review by Special Permit, of the Zoning By-Laws to renovate and raise two structures, construct retaining wall, add parking spaces and complete other site improvements at the property located at **58-60 Bradford Street**, with requested waivers from Article 4, Sections 4035(c), 4163(2), (3) and (6) and 4600.

f) **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). Tabled.

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 September 14 and September 28, 2017.** Tabled.

h) **Any other business that may properly come before the Board:** None.

4. Information items

Food truck survey data – for future discussion: Tabled.

There was a motion by Dave Abramson to adjourn the Planning Board meeting at 10:45 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2017
John Golden, Chair