

PLANNING BOARD
Meeting Minutes
Thursday, December 14, 2017
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Steven Baker, Ryan Campbell and Dave Abramson.

Members Absent: Grace Ryder-O'Malley (excused), and Brandon Quesnell (excused).

Staff: David Gardner (Assistant Town Manager) and Ellen C. Battaglini (Permit Coordinator).

1. Public Comments:

None.

Chair John Golden stated that the Board would consider PLN 17-33 and 17-34 first to determine whether it would re-open the matter based upon a request made by the applicant at a previous meeting.

2. Work Session:

a) **Reconsideration:**

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.**

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.**

Attorney Lester J. Murphy, on behalf of the Mass Organic Therapy, Karen DePalma, Trustee of the co-applicant Fifth Gear Realty Trust, Patrik Jonsson, of Mass Organic Therapy, and Attorney Christopher J. Snow, representing Ms. DePalma, appeared to discuss the matter. Attorney Murphy explained the circumstances related to the ownership of the property that had recently arisen recently prompting the applicant's request to reconsider the project. The situation involved the ownership of the only other unit in the condominium that is the subject of the two cases. Attorney Murphy explained that this unit was being conveyed to the owner of the abutting property and, as a result, there had been a significant change in the circumstances surrounding the matter related to the previous unit owner's agreement with the applicant. He said that the Board had understood when it approved the project that the owner of the unit was in support of the proposed changes to the property. That is no longer the case, however he said

that an agreement had taken reached with the new owner, requiring slight modifications to the approved site plan conditions. He requested that the Board re-consider the matter and be heard at the January 11, 2018 Public Hearing. According to Attorney Murphy, the applicant would provide to the Board a slightly revised site plan with conditions agreed to by all parties.

There was a motion by Dave Abramson to re-open PLN 17-33 and PLN 17-34 and re-consider at the January 11, 2018 Public Hearing at 6:30 P.M. Ryan Campbell seconded. VOTE: 4-0-0.

3. Public Hearings:

a) PLN 18-03 (continued from the meeting of November 9th)

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**. Ryan Campbell stated that he had watched the previous hearing of this matter and had signed and submitted a form pursuant to the Mullin Rule attesting to that fact. John Golden, Ryan Campbell, Steven Baker and Dave Abramson sat on the case.

Presentation: Art Sahakyan appeared to discuss the application. An engineered site plan showing existing conditions had been submitted to the Board per its request.

Public Comment: None.

Board Discussion: The Board briefly commented on the site plan.

There was a motion by Steven Baker to approve the Site Plan 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. Ryan Campbell seconded. VOTE: 4-0-0.

b) PLN 18-09 (continued from the meeting of November 9th)

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, Steven Baker, Ryan Campbell and Dave Abramson sat on the case.

Presentation: Steven Cook, an architect representing the applicant, and Kevin Bazarian, a contractor, appeared to discuss the application. Mr. Cook said that the project had received approval from the Historic District Commission. The Board had requested cut sheets for the proposed exterior light fixtures, which had been submitted, along with a new landscaping plan showing a reduction in the area of grass and parking spaces, the location of existing and new trees and an indication that the hedge on the south side of the property would be retained. In addition, he said, regarding the trash and recycling bins, each unit would have its own bins located behind the structures and there would be private pick-up of trash, the bike rack location had been noted on the site plan and the architecture of the new cottage matched that of the main structure, regarding windows, siding, etc.

Public Comment: None.

Board Discussion: The Board questioned Mr. Cook and Mr. Bazarian.

There was a motion by Steven Baker to grant 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. Dave Abramson seconded. VOTE: 4-0-0. Dave Abramson will write the decision.

c) **PLN 18-10** (*postponed from the meeting of November 9th*)

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**. John Golden, Steven Baker, Ryan Campbell and Dave Abramson sat on the case.

Presentation: Mark Kinnane appeared to present the application. He reviewed the project and the site plan.

Public Comment: None.

Board Discussion: The Board questioned Mr. Kinnane about the site plan, including the proposed exterior lighting, the landscaping and the new driveway

There was a motion by Ryan Campbell 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 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. Steven Baker seconded. VOTE: 4-0-0.

d) **PLN 18-11** (*postponed from the meeting of November 9th*)

Application by **PMR Realty Trust** requesting a Site Plan Review by Special Permit pursuant to Article 4, Special Regulations, Section 4015 a (4), Site Plan Review by Special Permit, of the Zoning By-Laws to add a second floor dormer to accommodate employee dormitory housing on a property that has a curb cut greater than 25% of its existing street frontage located at **212 Bradford Street**. John Golden, Steven Baker, Ryan Campbell and Dave Abramson sat on the case.

Presentation: Attorney Lester J. Murphy, representing the applicant, Jay Norton, of Coastal Engineering Co., and Peter MacDonald, an architect, appeared to present the application.

Attorney Murphy reviewed the project. Upgrades will be made to the exterior and interior of the building, including the addition of a dormer on the east elevation, resulting in housing on the second floor for 4 employees. He noted that the applicant would be seeking zoning relief from the parking requirements because there is limited parking on the site. The parking that exists is located in a Town right-of-way and its use is allowed by a licensing agreement between the applicant and the Board of Selectmen. The changes to the building have been approved by the HDC. He reviewed the waivers, including those related to access and traffic impact, landscaping, underground utility installation and street trees. He argued that the proposal is in keeping with the goals of the Local Comprehensive Plan, including economic

development and the generation of affordable workforce housing. He argued that a Developmental Impact Statement was not necessary in this case, as the septic gallons were approved under an Economic Development Permit, changes to the site were minimal and the lot is already well developed. Bike racks are being provided for both employees and the public. Mr. MacDonald briefly reviewed the architectural changes. Mr. Norton reiterated that the footprint of the building will not be altered.

Public Comment: None.

Board Discussion: The Board questioned Attorney Murphy and discussed conditions.

There was a motion by Ryan Campbell to grant a Special Permit pursuant to Article 4, Special Regulations, Section 4015 a (4), Site Plan Review by Special Permit, of the Zoning By-Laws to add a second floor dormer to accommodate employee dormitory housing on a property that has a curb cut greater than 25% of its existing street frontage located at 212 Bradford Street with the requested waivers and with the condition that a built-up planting buffer be provided and maintained in the front of the structure by the owner until such time as the Planning Board or Board of Selectmen ask for its removal. Dave Abramson seconded. VOTE: 4-0-0. Ryan Campbell will write the decision.

e) **PLN 18-13**

Application by **Kieran J. Healy**, on behalf of **Marolima East, LLC**, requesting Site Plan Review by Special Permit pursuant to Article 2, Districts and District Regulations, Section 2320 (A), High Elevation Protection District, and Article 4, Special Regulations, Section 4015 a. (4), Site Plan Review by Special Permit, of the Zoning By-Laws for new construction involving the movement of more than 750 cu. yds. of earth on the properties located at **806, 820, 824 and 828 Commercial Street** with waivers from Article 4, Section 4028, f. and l. John Golden, Steven Baker, Ryan Campbell and Dave Abramson sat on the case.

Presentation: Kieran J. Healy, of BSC Engineering, and Mark Legere, the owner of the property, appeared to present the application. Mr. Healy reviewed the project, which includes the construction of four single-family houses on four adjacent lots. He indicated that no one lot triggers relief from the moving of 750 cu. yds. of earth requirement, however the four lots taken as a whole do. The project will be phased, with two houses constructed now and the remaining two at a later date. He reviewed the drainage and erosion controls and mentioned the unvarianced septic systems to be installed and stated that there will be no disturbance of the crest of the hill spanning the properties. Mr. Healy said that a majority of each site will be left undisturbed. He reviewed the requested waivers regarding the location, dimensions, and use of all existing and proposed structures within the sites and landscape plans depicting existing and proposed vegetation; including the identity and location of trees four inches in diameter or greater; and the location, size and type of proposed landscaping. He said he had submitted floor plans for the first two structures to be built and the remaining floor plans have yet to be finalized.

Public Comment: Celine Gandolpho, speaking for the Provincetown Conservation Trust, spoke in opposition to the project. Therese Nelson and Mary Ellen Dwyer, abutters, and Sherry Dranch had serious concerns about the project. Allison Dwyer commented about the deeded walkway through the site. There were 3 letters of concern about the project.

Board Discussion: The Board questioned Mr. Healy and Mr. Legere. Mr. Healy addressed some of the concerns of the abutters, including the status of the deeded walkway through the site and access to adjacent properties. The Board expressed concern that the floor plans for

only two structures were submitted and the lack of specificity regarding hardscapes, drainage, landscaping for the two lots to be built at a later date. It requested that the applicant submit site plans for landscaping, parking and hardscape for each lot separately, a definition and delineation of the deeded walking path on the site plan, an exterior lighting plan with cut sheets for fixtures, indicate trees to be removed and trees to be planted within the limit of work and 10' beyond that limit, of plantings and a clarification of the parking on the 824 Commercial St. lot. In addition, the Board requested that a temporary limit of work be designated between the second and third lots to be utilized until the remaining lots were approved and beyond which no clearing of vegetation or work would take place. Mr. Healy said that he could submit that information for the first two lots and then return with more information about the remaining two lots in the future.

There was a motion by Steven Baker to continue PLN 18-13 to the January 11, 2018 Public Hearing at 6:30 P.M. Dave Abramson seconded. VOTE: 4-0-0.

f) **PLN 18-14**

Application by **BPJC, LLC**, requesting the modification of a site plan pursuant to Article 4, Special Regulations, Section 4015 a. (1) and (5), of the Zoning By-Laws approved in Case #16-28 to revise portions of Building 5 & 6 to provide a second means of egress for Unit 13, construct wooden stoops for Units 9-12, to provide driveway curb cuts and sidewalk changes, to modify landscaping details and to remove trees and undertake replanting pursuant to directions by Town staff at the property located at **350 Bradford Street**. There was a request from the applicant to postpone until the January 11, 2018 Public Hearing at 6:30 P.M. ***There was a motion by Ryan Campbell to grant the request to postpone PLN 18-14 to the January 11, 2018 Public Hearing at 6:30 P.M. Steven Baker seconded. VOTE: 4-0-0.***

g) **PLN 18-15**

Application by **Lisa Pacheco Robb**, on behalf of **Miriam Gallardo & Courtney Spitz**, for 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 an addition to a structure and a new foundation under a portion of the structure located at **62 Mayflower Avenue**. John Golden, Steven Baker, Ryan Campbell and Dave Abramson sat on the case. **Presentation:** Lisa Pacheco Robb and Miriam Gallardo appeared to present the application. Ms. Pacheco Robb reviewed the project, which includes an addition on the rear of the structure and the installation of a new foundation. All changes will be on already disturbed land. All heavy equipment would be staged below the high elevation portion of the property.

Public Comment: None. There were 7 letters of support for the project.

Board Discussion: The Board questioned Ms. Pacheco Robb and Ms. Gallardo. It requested that an exterior lighting plan with cut sheets for dark sky compliant lighting fixtures and a landscaping plan clarifying the existing and the new vegetation be submitted to staff.

There was a motion by Steven Baker 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 an addition to a structure and a new foundation under a portion of the structure located at 62 Mayflower Avenue with the condition that additional information be submitted to staff, including an exterior lighting plan with cut sheets for dark sky compliant

fixtures and a more detailed landscaping plan showing existing and proposed plantings. Dave Abramson seconded. VOTE: 4-0-0.

4. Work Session:

- a) **Discussion regarding Board communication and meeting length.** Tabled.
- b) **Discussion of planting list and categories** (placeholder). Tabled.
- c) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan** (placeholder). This topic will be discussed in the spring.
- d) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder). Tabled.
- e) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and November 30, 2017.**

November 30, 2017: There was a motion by Steven Baker to approve the minutes as amended. Dave Abramson seconded. VOTE: 4-0-0.

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

5. Information items:

- a) Food truck survey data – for future discussion: Tabled.
- b) Town Planner’s memo of potential zoning by-law amendments for Annual Town Meeting 2018 – Mr. Gardner said he would have suggestions at the next meeting on January 11, 2018 and asked that Board members come with their ideas.

Dave Abramson moved to adjourn the Planning Board meeting at 9:45 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
John Golden, Chair