

PLANNING BOARD
Meeting Minutes
Thursday, September 13, 2018
Judge Welsh Room
6:30 P.M.

Members Present: David Abramson, John Golden, Ryan Campbell, Albert Carey and Jason Potter.

Members Absent: Brandon Quesnell (excused).

Staff: Jeffrey Ribeiro (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

Chair David Abramson called the Public Hearing to order at 6:35 P.M.

1. **Open Meeting Law Complaint: Acknowledge receipt of an Open Meeting Law complaint from Cathy Kucinkas, dated August 15, 2018; consider response to complaint; vote to resolve same.** David Abramson recused himself because of a conflict of interest. Mr. Ribeiro reviewed the OML complaint and Town Counsel's draft response. He said that the Board vote to authorize or not to authorize Town Counsel's draft response. *There was a motion by Ryan Campbell to approve Town Counsel's response to an Open Meeting Law complaint filed by Cathy Kucinkas. Jason Potter seconded. VOTE: 4-0-0.*

2. **Public Comments:**
None.

3. **Public Hearings:**

a) **PLN 18-28** (*request to postpone to the meeting of September 27th*)
Application by **Cape Cod Pilgrim Memorial Association** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (2), of the Zoning By-Laws for the installation of an inclined elevator (funicular) system comprising more than 2000 sq. ft. of new commercial area on a parcel located at **1 High Pole Hill Road**. There was a request from the applicant to postpone PLN 18-28 to the Public Hearing of September 27, 2018 at 6:30 P.M. *There was a motion by Ryan Campbell to approve the request to postpone PLN 18-28 to the Public Hearing of September 27, 2018. John Golden seconded. VOTE: 5-0-0.*

b) **PLN 18-29** (*request to postpone to the meeting of September 27th*)
Application by **Cape Cod Pilgrim Memorial Association** requesting Site Plan Review by Special Permit pursuant to Article 2, Section 2320, High Elevation Protection District (A) & (B), of the Zoning By-Laws for the installation of an inclined elevator (funicular) system running from its property on Bradford Street adjacent to the Bas Relief up the hill to the site of the Pilgrim Monument and Museum located at **1 High Pole Hill Road**. There was a request from the applicant to postpone PLN 18-29 to the Public Hearing of September 27, 2018 at 6:30 P.M. *There was a motion by Ryan Campbell to approve the request to postpone PLN 18-29 to the Public Hearing of September 27, 2018. John Golden seconded. VOTE: 5-0-0.*

c) **PLN 19-04** (*postponed from the meeting of August 23rd*)

Application by **Pavel Fiodarau**, on behalf of **PV Development, LLC**, requesting a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, for the construction of two three-bedroom, single-family residences on the property located at **170 Bradford Street Extension**.

d) **PLN 19-05** (*postponed from the meeting of August 23rd*)

Application by **Pavel Fiodarau**, on behalf of **PV Development, LLC**, requesting a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a., (1), of the Zoning By-Laws for a development consisting of the aggregate of residential units that will result in two or more residential units on the property located at **170 Bradford Street Extension**. The Board heard both cases together. David Abramson, John Golden, Ryan Campbell, Albert Carey and Jason Potter sat on both cases.

Presentation: Attorney Robin B. Reid and Pavel Fiodarau, a principal of the applicant LLC, appeared to present the application. Attorney Reid reviewed the applications. The applicant seeks to construct two new structures on the lot. She reviewed the criteria of Site Plan Review by Special Permit and noted that the project was consistent with the goals of the Local Comprehensive Plan. Pursuant to the requirements, the ways within the site are conforming, the drainage is contained within the site, including the runoff from Bradford Street Extension, the utilities are underground, the driveway is shelled and there will be very few grade changes. She said that the proposed development is not dense and is in complete compliance with all zoning regulations. There is an on-site septic system and the somewhat steep hill on the western side of the site will not be disturbed. No additional waste, septage, public safety or administrative burden will be created as a result of this project and there will be no detrimental effect on the ecology of the area, such as disruption of the biological environment so as to endanger desirable species of trees and other vegetation or encourage proliferation of undesirable species. She reviewed the planting plan, which, she said, was created with input from the neighbors, and she noted that the applicant would be replacing the trees that had to be removed, including because of their health, with mature trees, during the construction phase of the project. A mature buffer of vegetation will remain on the site. She said that three pines will be removed and four trees of a smaller than 6" caliper and these will be replaced with ten trees. There will be no detrimental impacts on abutting properties as a result of this project, the unique features of the site will be protected and there will be no vehicular or pedestrian safety issues and no flood hazard issues will be created. The proposed lighting is in compliance with Article 3, Section 3130. The driveway accessing the site from Bradford Street Extension has been previously discussed and approved by the Board. She added that the applicant is intending upon making a payment in lieu to satisfy the Inclusionary By-Law. She then addressed some of the issues that she heard from the neighbors. She argued that the applicant has a right to develop his property and that, in fact, he could build more than two structures if he wanted. The structures will not be over height for the neighborhood average scale. The stability of the hills on the site are not an issue and very little grading will occur, contrary to the concerns of some neighbors. As to privacy issues, she said the property was lower in elevation than the abutting Nickerson Street and that the applicant would be maintaining a healthy vegetated buffer on the site.

Public Comment: Sylvia Peck, Richard Spada and Sheila Oliver, both abutters, spoke in opposition to the project. Alan Miles, an abutter, had questions about zoning issues, Claire

Willis, an abutter, asked about drainage on the site. There was 1 letter in support of the application and 5 letters in opposition and 2 letters of concern from abutters.

Board Discussion: The Board questioned Attorney Reid and Mr. Fiodarau. There was a question about the proposed elevation of the pool deck. The Board requested that the driveway be 18' wide and should be labeled as such on all plans and noted discrepancies between the septic and the landscape plans. Attorney Reid said that was a result of trying to save a tree near the septic system and that the septic plan will be revised to mirror the landscaping plan. Pursuant to concerns from the neighbors, the black oak tree that is in poor condition on the property and whether it can be saved was discussed. Attorney Reid said that the applicant would like to save the black oak and that if it cannot be saved, a new tree would be planted. Before approval, the Board requested that the applicant submit a septic and the landscape plan in conformity with each other and that the driveway width and the driveway material be indicated on the plans, that the black oak be saved and also that a second tree be planted in the same area, and that the elevation marks regarding the pool be double checked on both plans and to make sure that the proposed exterior lighting is dark sky compliant. The Board discussed the black oak tree again with Attorney Reid.

There was a motion by Ryan Campbell to continue the PLN 19-05 to the September 27, 2018 Public Hearing. John Golden seconded. VOTE: 5-0-0.

e) **PLN 19-06** (*request to postpone to the meeting of September 27th*)

Application by **J. Bruce MacGregor, Trustee, Cape Commerce Nominee Trust**, requesting a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws for the construction of a one-bedroom, single-family residence on the property located at **13 Willow Drive** with requested waivers pursuant to Article 4, Section 4030, Waivers, including from Article 4, Sections 4053, Commercial Design Standards, 4163, Residential Design Standards, 2. and 3. and 4600, Street Trees and Article 5, Section 5331, Developmental Impact Statements. There was a request from the applicant to postpone PLN 19-06 to the Public Hearing of September 27, 2018 at 6:30 P.M. ***There was a motion by Ryan Campbell to approve the request to postpone PLN 19-06 to the Public Hearing of September 27, 2018. John Golden seconded. VOTE: 4-0-0.***

f) **PLN 19-07** (*request to postpone to the meeting of September 27th*)

Application by **Bruce MacGregor, Trustee, Cape Commerce Nominee Trust**, requesting a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, for the construction of a one-bedroom, one-family residence on the property located at **13 Willow Drive**. There was a request from the applicant to postpone PLN 19-07 to the Public Hearing of September 27, 2018 at 6:30 P.M. ***There was a motion by Ryan Campbell to approve the request to postpone PLN 19-07 to the Public Hearing of September 27, 2018. John Golden seconded. VOTE: 4-0-0.***

4. Work Session:

a) Release of bond posted for 350 Bradford Street project: David Abramson recused himself because of a conflict of interest. Mr. Ribeiro reviewed the issue. ***There was a motion by Ryan Campbell to release the bond posted for the project at 350 Bradford Street. Jason Potter seconded. VOTE: 4-0-0.***

b) Pending Decisions:

PLN 18-33 (Jeff)

Application by **Curaleaf Massachusetts, Inc.** requesting a modification to the application for a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change of use of a structure to a retail marijuana establishment on the property located at **170 Commercial Street**. The decision was not ready.

PLN 19-08 (Jeff)

Application by **Pavel Fiodarau**, on behalf of **PV Development, LLC**, requesting to modify a previously approved Special Permit, PLN 18-20, to change the proposed surface of the driveway on the property located at **168 Bradford Street Extension**. The decision was not ready.

b) **Discussion of proposed Zoning By-Law revisions for the 2018 Fall Town Meeting:** Mr. Ribeiro reviewed the latest revisions of each of the proposed by-laws. The Board briefly discussed the by-laws and made several edits.

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

d) **Discussion regarding Outer Cape Health plantings and whether they are in compliance with the approved plan.**

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

f) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and August 23, 2018.**

August 23, 2018: *There was a motion by Ryan Campbell to approve the minutes as written. John Golden seconded. VOTE: 4-0-0.*

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

Ryan Campbell moved to adjourn the Planning Board meeting at 8:30 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
David Abramson, Chair