

PLANNING BOARD
Meeting Minutes
Thursday, March 10, 2022
6:00 P.M.

PB Members Present: Paul Graves, Brandon Quesnell (online), Jeffrey Mulliken, Paul Kelly, Donna Walker, Mia Cliggott-Perlt, and Dana Masterpolo.

Members Absent: Steven Azar (excused) and Marianne Clements (excused).

Staff: Thaddeus Soulé (Town Planner).

Mr. Soulé called the roll. He explained that the meeting was being held in person, however both the public and the Board members can participate either by dialing into the meeting or joining the Microsoft Teams application. Since a quorum was present, he said that the meeting would not be suspended or terminated if there were technological problems interrupt the broadcast unless required by law. He gave the information that would be needed to call in by phone. The meeting is being broadcast live on PTV, Ch. 18, and will be posted online as soon as possible.

Chair Paul Graves called the meeting to order at 6:02 P.M.

1. **Public Comment:** Mr. Graves explained that a member of the public has 3 minutes to comment on an application and if that person has already sent an email or a letter of comment, he or she will not be allowed to speak.

2. **Public Hearings:**

PLN 21-26 *(continued to the meeting of March 24th)*

Application by **Wayne Tavares**, on behalf of **Michael J. Shuster**, seeking Site Plan Review pursuant to Article 2, Section 2320(B), High Elevation Protection District (B), of the Zoning By-Laws to construct retaining walls, stepped terraces (plateaus), a shed, and a swimming pool on the property located at **99 Bayberry Avenue**.

PLN 21-32 *(request to continue to the meeting of March 24th)*

Application by **Christopher J. Snow, Esq.**, on behalf of **Tri-T, LLC**, seeking a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive By-Law, for a development that will result in a net increase of two or more dwelling units on the property located at **22 Nelson Avenue**.

PLN 21-33 *(request to continue to the meeting of March 24th)*

Application by **Christopher J. Snow, Esq.**, on behalf of **Tri-T, LLC**, seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1 & (5), of the Zoning By-Laws for a development that will result in an increase of residential units of three or more and will result in new construction or any excavation, land removal, or earth-moving of more than 750 cu. yds. That will alter the topography from natural grade on the property located at **22 Nelson Avenue**. There was a request from the applicant to continue PLN 21-32 and PLN 21-33 to the Public Hearing of March 24, 2022 at 6:00 P.M.

There was a motion by Brandon Quesnell to continue PLN 21-32 and PLN 21-34 to the Public Hearing of March 24, 2022 at 6:00 P.M. Paul Kelly seconded. VOTE: 7-0-0.

PLN 22-4

Application by **Kurt Raber**, on behalf of **Riley Brothers Realty, LLC**, seeking a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, a. (2), (4), and (5), Site Plan Review by Special Permit, of the Zoning By-Laws to renovate an existing bike shop, including combining dwelling units on the second and attic floors of an existing structure to make a three-bedroom dwelling unit, demolishing and removing an existing dwelling unit in the rear, and constructing a new building with a bicycle storage on the first floor and two new two-bedroom dwelling units on the second floor on the property located at **136 Bradford Street**. Mr. Graves and Ms. Walker recused themselves because of conflicts of interest. Mr. Quesnell chaired the application. Jeffrey Mulliken, Paul Kelly, Mia Cliggot-Perlt, and Dana Masterpolo sat on the case.

Presentation: Kurt Raber, Mike Riley, and Steve Riley appeared to present the application. Mr. Raber reviewed the project. He noted a site plan and a drainage/grading plan that had both been submitted. There is an existing Victorian house on the property, which was recently the subject of an ANR plan to enlarge the lot to 10,000 sq. ft. The structure was previously converted a flower shop and now is a bicycle rental shop. To the rear of this structure, there is a one-story residential unit. This portion of the structure will be removed, and a new addition will be constructed. A retaining wall will connect to a second structure, which, on the first floor will be bicycle storage area, and on the second floor will be 2 one-bedroom rental residential units. The third residential unit, a three-bedroom unit, will be renovated in the space that is an existing residential unit located on the second floor and attic story of the Victorian structure. He reviewed a septic plan showing the drainage structures, which will infiltrate the roof runoff, around its perimeter. A wooden fence will be installed along the west property line. He reviewed the landscape plan and noted the legend, which identifies existing trees, new street trees, cherry laurels, evergreen shrubs, green velvet boxberries, emerald green arborvitaes, white rhododendrons, and hydrangeas, all of which do well in the Cape Cod climate. The intent was to create a 'green' walkway up the west side of the property, using the existing trees and new plantings, back to the side and rear of the second building and to serve as a pedestrian access to the residential units. To the right of the Victorian structure is a parking area where bicycles are stored and displayed and where the new septic system for both structures will be located. The width of the current curb cut on Bradford Street is being reduced with a new tree island planted with a new tree and groundcover. There are 6 parking spaces for the business and the residential units. Currently the bicycles for rent are displayed in the parking lot, however the new bicycle storage area will allow them to be secure and safe and protected from the weather, in addition to providing winter storage. The second floor of the new structure in the rear will be used as residential units intended for the housing of employees of the bicycle shop. He reviewed a lighting plan with a schedule of light fixtures that were reviewed and approved, at one time, by the Historic District Commission and the Zoning Board of Appeals, as this project was previously reviewed by both. They will be mostly building-mounted and are of a decorative sconce style, shielded and downward-facing. There may be slight spillover from the recessed cans that are in the existing porch roof that are meant to light up the edge of the public sidewalk. The 'B' fixtures which are along the sidewalk around the west side and the rear are short pedestal bollard light fixtures and are shielded from spillover. They are for illuminating the walkway for egress and entry purposes. He noted the

package of architectural plans that were approved by the HDC. Mr. Quesnell wanted new Board members to understand why the application was before the Board. Mr. Soulé reviewed the Zoning By-Laws under which the application was submitted. Mr. Quesnell asked Mr. Soulé what the concerns of the ZBA were about the project. Mr. Soulé said that the previous application had been withdrawn without prejudice from the ZBA and approved by the HDC. Mr. Raber explained the history of the project, which included seeking the approval of the ZBA for relief from building scale for an addition to the Victorian structure, as it was proposed to be in excess of the neighborhood average scale. He said it was clear that the ZBA was not in favor of the increase in building scale, so the application was withdrawn without prejudice. Thus it was decided that a two-building scheme would be designed instead. It was submitted to the HDC and was eventually approved. It is those plans that have been submitted to the Board. The new design approved by the HDC was not required to obtain ZBA approval.

Public Comment: None. There was 1 letter of concerns from an abutter.

Board Discussion: The Board questioned Mr. Raber. Mr. Mulliken asked if the new retaining wall be relocated farther west and if the first parking space could be moved away from the building in order to save a tree whose roots are deflecting an existing concrete wall. Mr. Raber said that the excavation work for the new septic system would most likely undermine the tree. He said that a new tree will be planted to the north of that tree, positioned to be away from the parking and a green divider. In addition, a street tree is being added. Mr. Mulliken asked about a question in the abutter's letter about 2 commercial units being present on the property. Mr. Raber said that there is only 1 commercial unit on the site. Mr. Mulliken asked Mr. Raber to explain the grade change between the rear of the building and the parking lot. Mr. Raber said that the proposal is for a tiered retaining wall, so even from the parking lot, one would not see a large edifice that is the retaining wall. There will be a hedge row in one of the tiers and a fence along the inside of that as a guardrail along the rear portion of the walkway. He said it was to stabilize the grade of the dramatic slope down to the parking lot. The exposed wall will never be higher than 4'. The grade will be gradual between the lowest wall and the parking lot, and the existing soils will be bermed up against the wall. He said that the bicycle storage area floor will be about 3' below the existing grade, so the structure appears to be below the grade from the parking lot and will lower its apparent height from the rear and flatten out the grade across the driveway space. Mr. Mulliken reminded Mr. Riley that the parking spaces on the property could not be put up for sale. Mr. Kelly asked if it was possible to extend the retaining wall to the right of the new building, to bring it beyond the existing tree in order to save it. Mr. Raber said that the digging for the septic field would go down at least 7' and 7' from the center of the tree and most likely undermine the tree. Mr. Raber said he would look at it again and come back with a revised plan if it can be saved. The parking configuration would need to be revised if the tree could be saved. Mr. Riley said if the tree could be saved, it would be. Mr. Kelly asked if there would be electric vehicle charging stations on site and Mr. Riley said the proposal did not include those. Mr. Kelly asked if there would be a well dug on the site with irrigation capability. Mr. Riley said that the vegetation would be watered adequately to ensure survival and there were no plans for a well to be dug on the site. Ms. Cliggott-Perlt asked if the parking spaces were for customers or residents of the rental units. Mr. Riley says that there will be bicycles outside and workforce housing residents/employees usually do not have bicycles. Ms. Masterpolo asked about the abutter's letter concern about density. Mr. Soulé read the portion of the letter where the concern was expressed. She asked about whether having 1 or 2 commercial spaces on the site mattered if in the future the property was sold, as a new owner

may want to add another commercial space on the property. Mr. Soulé said the septic flow and parking requirements would be the determining factors as to whether that could occur. Mr. Quesnell asked Mr. Riley to explain the proposal for having employee housing on the site. Mr. Riley said that all the residential units would be used as workforce housing, with reasonable rents and that he would be occupying one of the units. Mr. Quesnell requested that the property be deed-restricted for workforce housing and indicated that he would not vote for approving the Special Permit requested unless the housing was deed-restricted. The issue was discussed with the Mr. Riley and Mr. Raber. Ms. Cliggott-Perlt explained that the deed restriction would indicate that the housing units could not be used for short-term rental, 30 days or less, purposes. The conditions will include a deed restriction shall be recorded to preclude short-term rentals of 30 days or less, no sale of parking spaces. The Board discussed with Mr. Riley requiring the infrastructure of 1 electric vehicle charging station. Mr. Raber said there were no plans to install the infrastructure. Ms. Cliggott-Perlt asked about the location of the handicapped parking space, suggesting it should be the first parking spot. Mr. Raber explained that the first parking space would be used to display bicycles and the third bay, which is directly opposite the entrance of the retail shop, would be used for the handicapped spot. This would add convenience for a disabled customer. Mr. Kelly argued for a condition that the infrastructure for an electric vehicle be installed on the site. Mr. Riley asked for clarification as to whether the Board was referring to the Eversource infrastructure or the “in the ground’ infrastructure for the charging station. Mr. Quesnell thought that installing the conduit would be sufficient. Mr. Soulé said that the standard Board condition for this issue states that electrical utilities and necessary metering or wiring to accommodate the installation, or future installation, of an electric vehicle charging station shall be installed within the parking area.

There was a motion by Mia Cliggott-Perlt to approve PLN 22-4, a Special Permit pursuant to Article 4, Section 4015, a. (2), (4), and (5), Site Plan Review by Special Permit, of the Zoning By-Laws to renovate an existing bike shop, including combining dwelling units on the second and attic floors of an existing structure to make a three-bedroom dwelling unit, demolishing and removing an existing dwelling unit in the rear, and constructing a new building with a bicycle storage on the first floor and two new two-bedroom dwelling units on the second floor on the property located at 136 Bradford Street. with the following conditions: all stormwater runoff from proposed impervious surfaces shall be contained and infiltrated within the property, during construction stormwater runoff shall be trapped on site and exposed or disturbed areas shall be permanently stabilized within 6 months of the end of work, electrical utilities and necessary metering or wiring to accommodate the installation, or future installation, of an electric vehicle charging station shall be installed within the parking area, all landscaped areas shall be properly maintained and any shrubs or trees that die shall be replaced within 1 growing season, a deed restriction shall be recorded to preclude short-term rentals of 30 days or less, the proposed parking spaces shall be appurtenant to the residential dwelling units and the commercial uses and shall not be deeded separately to non-occupants of the premises, all lighting shall be dark sky compliant, and a copy of the as-built plans shall be submitted to the Department of Community Development after work is complete for final site inspections prior to the issuance of a final Certificate of Occupancy. Paul Kelly seconded. VOTE: 5-0-0 by roll call.

3. Work Session:

a) **Coastal Resiliency Advisory Committee Representative:** Mr. Soulé explained that there a Coastal Resiliency Advisory Committee was formed by the Select Board 2 years ago before the COVID-19 pandemic hit. It was not able to meet because of the restrictions related to the pandemic. A representative from the Board, from the Conservation Commission, and members from other groups in Town, including the Harbor Committee, are part of the Committee. The Conservation Agent, the Town Planner, and the Marine Coordinator will be the staff representatives for the Committee. At its first meeting, the group will figure out its schedule. The purpose of the Committee is to research and come up with solutions for the coastal resiliency of the Town and how it will deal with an increase in storms, flooding events, and additional issues related to the rise in sea level. The Board does not have to take a vote tonight and can think about it, unless there is a volunteer who wants to serve on the Committee. Mr. Graves said that Board members can think about it and choose someone at the next meeting. The Board would like some information to review before the next hearing. Mr. Soulé will send out the Committee's mission statement.

Mr. Quesnell asked about the Board's other sub-committee regarding the Inclusionary and Incentive By-Law. He believes it should continue to work on the issue. The Board briefly discussed it. Mr. Soulé said that originally Monica Stubner and Steven Azar were on the subcommittee. Mr. Graves said that a good time for the subcommittee to meet would be after the Spring Annual Town Meeting to assess how to move forward depending upon what By-Law changes are approved by at the Spring Annual Town Meeting. Ms. Walker may be interested in joining the subcommittee She noted the short period of time that the Board had to consider Zoning By-Law amendments and wondered if more of the Board's time could be set aside for that process. Mr. Quesnell reminded the Board that he had requested that Mr. Soulé create language for the Board's rules and regulations to that effect. Ms. Masterpolo asked if there was a subcommittee to review other Zoning By-Laws related to previous Board discussions, as she would be interested in working on those. Mr. Quesnell said he would like the Board to consider Zoning By-Law amendments at each meeting if any Board member has an idea about a particular By-Law that needs revising.

b) **Draft Zoning By-Law Amendment discussion:** Mr. Quesnell asked about the Board recommending other warrant articles for Spring Annual Town Meeting. Mr. Graves suggested that Mr. Quesnell share the information with other Board members for their review before the Public Hearing of the Zoning By-Law amendments on March 24th.

c) **Pending Decisions:**

PLN 21-14

Application by **Lester J. Murphy, Jr., Esq.**, on behalf of **Dol-Fin Development**, seeks Site Plan Review pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws to construct 7 new residential units on the property located at **50 Nelson Avenue**.

PLN 21-15

Application by **Lester J. Murphy, Jr., Esq.**, on behalf of **Dol-Fin Development**, seeks Site Plan Review by Special Permit pursuant to Article 4, Sections 4015, Site Plan Review by Special Permit, a. (1) for an increase in residential units resulting in three or more, and (5, for the excavation, land removal, or earth-moving of more than 750 cu. yds. that will alter the topography from natural grade, and 4180, Inclusionary and Incentive By-Law, of the Zoning By-Laws for the construction of 7 new residential units; 1 of which will be located on the site and deed-restricted as affordable, and 1 for which the Town will receive a payment in lieu on the property located at **50 Nelson Avenue**. There were no corrections to the decision.

PLN 22-2

Application by **Paul Muldoon**, on behalf of **TMW Properties, LLC Prov Series**, seeking a Site Plan Review by Special Permit pursuant to Article 4, Section 4015 a., (5), Site Plan Review by Special Permit, of the Zoning By-Laws to excavate, remove land, or earth move more than 750 cu. yds. that will alter the topography from natural grade to remove and reconfigure an existing retaining wall and stair structure abutting a recessed parking area on the property located at **28 Bradford Street**. There were no corrections to the decision.

d) **Minutes of February 24, 2022:**

February 24, 2022: *There was a motion by Jeffrey Mulliken to approve the language as amended. Donna Walker seconded. VOTE: 7-0-0.*

e) **Any other business that may properly come before the Board:** Mr. Mulliken asked about the dispensary questions the Board had discussed at the last meeting, particularly concerning the entrance location. Mr. Soulé said the issues had been communicated to the Zoning Enforcement Officer. He had sent an email to Mr. Mulliken regarding the entrance location was approved as it currently is. As to the product display in windows, Mr. Soulé will follow up with the ZOE as to the legality of what is currently shown in the windows of the establishment.

Mr. Kelly asked why the Shank Painter redevelopment project had never come to the Board for review or comment. Mr. Soulé said the project was scheduled for 2025 and is within a public right-of-way, which means it does not fall within the jurisdiction of the Board, as public right-of-ways do not have underlying zoning. Mr. Kelly asked about planning-related opportunities along Shank Painter Road and asked if there had ever been a plan done for the project. Mr. Soulé said he would re-send the plan, which is a 25% one that he had previously sent to the Board. Mr. Kelly said that when Provincetown 365 was active several years ago, many ideas were discussed, but not acted on. He asked how the Board could become involved. Mr. Soulé said that the Dept. of Public Works Director, Rich Waldo, was spear-heading the project. Mr. Mulliken asked if Mr. Waldo could speak to the Board about the project and its scope. Mr. Soulé said he would reach out to him. He said if any Board members have specific questions, they can email those questions to him, and he would pass them along to Mr. Waldo. The Board briefly discussed the issue. Mr. Mulliken said when the design was more complete than what it is now, it would be interesting to look at, particularly since the Board has approved several site plans already on Shank Painter Road. Mr. Soulé said Board members can give public input when that time comes for that process. He said he would send the Board information about the

Shank Painter project and the Jerome Smith housing project at the old VFW site as he receives it.

There was a motion by Brandon Quesnell to adjourn the meeting at 7:33 P.M. Mia Cliggott-Perlt seconded. VOTE: Unanimous by roll call.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2022
Paul Graves, Chair