

PLANNING BOARD

Meeting Minutes

Thursday, February 22, 2018

Judge Welsh Room

6:30 P.M.

Members Present: David Abramson, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell, Ryan Campbell (Alternate) and Albert Carey (Alternate).

Members Absent: John Golden (excused).

Staff: David Gardner (Assistant Town Manager) (left at 11:30 P.M.) and Ellen C. Battaglini (Permit Coordinator).

Chair David Abramson called the meeting to order at 6:30 P.M.

1. **Public Comments:**

None.

2. **Public Hearings**

a) **PLN 18-13** (*request to continue to the meeting of March 8th*)

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 Commercial Street** with waivers from Article 4, Section 4028, f. and l. *There was a motion by Ryan Campbell to continue PLN 18-13 to the March 8, 2018 Public Hearing at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.*

b) **PLN 18-16**

Application by **Mark Kinnane, of Cape Associates, Inc.**, on behalf of **Barry and Cynthia Peskin**, requesting a Site Plan Review pursuant to Article 2, Section 2320 (A), High Elevation Protection District, of the Zoning By-Laws to demolish and rebuild an unsafe structure on the property located at **11 Brewster Street**. David Abramson, John Golden, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell, sat on the case.

Presentation: Mark Kinnane, of Cape Associates, Inc., appeared to discuss the application and submitted a revised site plan as requested by the Board. He reviewed the revisions, including the addition of drywells, the identification of external dark sky compliant light fixtures, the location of retaining walls, grass, the buried propane tank and overhead utility lines. He noted that the fence would not be retained. He said the applicants hope to be able to bury the overhead utility lines and they have not yet chosen dark sky compliant exterior light fixtures.

Public Comment: None.

Board Discussion: The Board questioned Mr. Kinnane. The Board requested that Mr. Kinnane submit a new site plan stamped by a licensed land surveyor and add a complete zoning table,

note that all exterior lighting, not just those located at exterior doorways, will be dark sky compliant and specific vegetation to be added.

There was a motion by Steven Baker to approve the site plan review for PLN 18-16, pursuant to Article 2, Section 2320 (A), High Elevation Protection District, of the Zoning By-Laws to demolish and rebuild an unsafe structure on the property located at 11 Brewster Street with the conditions that a revised site plan, signed by a licensed land surveyor, and including a complete zoning table, a landscaping plan and a cut sheet for dark sky compliant exterior lighting fixtures be submitted. Ryan Campbell seconded. VOTE: 4-0-0.

c) **PLN 18-17**

Application by **William Ned Munroe & Garry Sabatini** requesting Site Plan Review pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Zoning By-Laws for the construction of a new single-family residential structure with a pool and two accessory structures on the property located at **21 Pilgrim Heights Road**.

d) **PLN 18-18**

Application by **William Ned Munroe & Garry Sabatini** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (5), of the Zoning By-Laws for the removal of more than 750 cu. yds. of earth in the construction of a new single-family residential structure with a pool and two accessory structures on the property located at **21 Pilgrim Heights Road**. David Abramson, Grace Ryder-O'Malley, Steven Baker, Brandon Quesnell and Ryan Campbell (Alternate) sat on both cases.

Presentation: Attorney Lester J. Murphy, representing the applicants, Charles Rose, architect for the project, Stacy Kanega, of Coastal Engineering, the engineer on the project, and Gordon Peabody, of Safe Harbor Environmental, who will be in charge of the site work and protection of the site, appeared to present the application. Attorney Murphy said that the house as designed, and as shown on submitted plans, was over the allowed building scale of the neighborhood due to an underground connection between the garage and the main house. He stated that as a result, the connection will be removed to keep the structure within the acceptable scale, and will be shown on revised plans. The property is in the high elevation protection district and more than 750 cu. yds. will be disturbed during the project. He described the components of the project and their location on the site. The design takes into consideration and respects the environmental features of the site and mimics the contours of the land. He argued that the Board could find that the structures will not detract from the scenic quality of the site and will blend into the natural landscape in that the structures will be located in the hillside above and away from the swale in the center of the lot. He added that the structures will be minimally visible from the street and adjacent properties. The utilities and the propane tank will be placed underground. All retaining walls and foundations will be screened with natural vegetation. All grading will be done within the construction area and the remainder of the site will be left untouched. The stormwater recharge elements will be in compliance with the requirements. The structures meet all the setback requirements and there will be a total of 73% green space. He reviewed the requested waivers from Article 4, s. 4035 b., that the plan meet the design requirements in Section 4163, Residential Design Standards, s. 4163 2., that curb radii at street intersections shall not be less than 25' and 3. that the minimum width of traveled surface within the site shall not be less than 18', s. 4053, Commercial Design Standards, and s. 5331, Development Impact Statements.

Mr. Rose reviewed the proposed architectural features of the structures, the contours of the site and some of the vegetation on the site, pointing out individual trees that will remain. The structures have been designed to follow the slope of the landscape and will have a low visual impact. He said that all landscaping will be native vegetation and all exterior lighting fixtures will be dark sky compliant. The project will include enhancing the natural barrier along the east and west sides of the site and supplementing the indigenous vegetation.

Ms. Kanega reviewed the elevations of the land and the proposed structures, the surfaces, such as patios, on the site and reviewed the volume of soil disturbance calculations.

Mr. Peabody reviewed the creation of the site as a natural landform and resource and explained how the property will be protected by the proposed design of the project. He also reviewed techniques that will be employed to provide that protection and its flora during the construction phase.

Public Comment: Jeanne Leszczynski, an abutter, spoke in support of the applications.

Board Discussion: The Board questioned Attorney Murphy, Mr. Rose, Ms. Kanega and Mr. Peabody. A suggestion was proposed a Board member to provide a ballasted EPDM rubber roofing system to cut down on glare to the neighbors and it was noted that several of the proposed exterior lighting fixtures were not dark sky compliant. The Board discussed the waivers requested. Several Board members commented that they thought the project was excessive for the site and one proposal was that the art studio/gym accessory building be raised. The Board was polled about the project.

There was a motion by Ryan Campbell to approve the waivers as listed on the application. Steven Baker seconded. VOTE: 4-1-0 (Brandon Quesnell opposed).

There was a motion by Ryan Campbell to approve the site plan review for PLN 18-17, pursuant to Article 2, s. 2320, of the Zoning By-Laws for the construction of a new single-family residential structure with a pool and two accessory structures and to grant a Special Permit for PLN 18-18, pursuant to Article 4, s. 4015, a.5, of the Zoning By-Laws, for the removal of more than 750 cu. yds. of earth in the construction of a new single-family residential structure with a pool and two accessory structures on the property located at 21 Pilgrim Heights Road with the conditions that all exterior lighting fixtures shall be dark sky compliant, that the art studio/gym accessory building shall be raised 2'4", that the EPDM rubber roof shall be low reflectivity and that revised plans shall be submitted showing the removal of the underground passageway between the garage and the main house. Steven Baker seconded. VOTE: 4-1-0 (Brandon Quesnell opposed). Steven Baker will write the decision.

e) **PLN 18-19**

Application by **BPJC, LLC** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) and (5), of the Zoning By-Laws for the modification and supplementation of information regarding a development consisting of more than two residential units on a parcel and resulting in the removal of more than 750 cu. yds. of earth on the property located at **350 Bradford Street**. Chair David Abramson recused himself because of a conflict of interest. Steven Baker, Grace Ryder-O'Malley, Brandon Quesnell, Ryan Campbell and Albert Carey sat on the case.

Presentation: Attorney Lester J. Murphy, representing the applicant BPJC, LLC, David Michniewicz, an engineer with Coastal Engineering, Ginny Binder, a consultant to the project, Patrick Mixdorf, an architect and Chris Wise, a manager of the applicant LLC, appeared to present the application. Attorney Murphy reviewed why the application was in front of the Board, citing the need to supplement the original site plan review by Special Permit by including in the records, a plan detailing the grade of the property prior to any human-made alteration, which had been an oversight at the time of the original site plan review. No changes in the buildings or the site are proposed.

Ms. Binder reviewed her research to establish original grade prior to human-made alteration on the site. She said that a topographical map from 1920, which she showed the Board, provided the establishment of grade prior to human alteration. She found that a road connecting Bradford and Commercial Streets was laid out on a plan of November 9, 1920. She alleges that this was the last point at which this land was undisturbed.

Mr. Michniewicz explained how the 1920 plan referenced by Ms. Binder, the datum of which has shifted since 1920, was digitalized and laid over the project site, fixing its topographic information to the site, and subsequently was used to determine that the heights of the proposed structures met the requirements. This process for establishing historical reference points is not unusual.

Mr. Gardner reviewed a memo written by staff regarding the application. Attorney Lester J. Murphy requested a continuance because he had not had the opportunity to review the memo. The Board discussed the issue of height and grade with Attorney Murphy, who reiterated the intent of the applicant to establish original grade and supplement the original site plan review material. The Board decided to continue the case.

There was a motion by Brandon Quesnell to continue PLN 18-19 to the March 22, 2018 Public Hearing at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.

f) **PLN 18-20**

Application by **Pavel Fiodarau** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws for the development of two or more residential units on a parcel located at **168 Bradford Street Extension** with requested waivers from Article 4, Section 4163, Residential Design Standards, 2. and 3. Ryan Campbell disclosed that he is currently working with the applicant on two projects and Steven Baker disclosed that he is a personal friend of the property owner at 31 Creek Road, an abutting property. David Abramson, Grace Ryder-O'Malley, Steven Baker, Ryan Campbell and Brandon Quesnell sat on the case.

Presentation: Attorney Robin B. Reid, representing the applicant, and Pavel Fiodarau appeared to present the application. Attorney Reid submitted a simpler version, with no new information, of a previously submitted site plan. She reviewed the site plan and the proposed project to build 3 single-family structures. The current property has five units containing nine bedrooms. She reviewed the criteria of s. 4015, including the intention of putting the utilities underground and the installation of dark sky compliant exterior light fixtures. French drains

will be installed under downspouts on the property. The waivers requested relate to the driveway that is shared by several properties and the curb radius. Both are less wide than required by the by-law. The existing units are being replaced with new code-compliant structures and the social, economic and other benefits to the Town and neighborhood outweigh any adverse effects, such as hazard, congestion or environmental degradation.

Public Comment: James Cyr, an abutter, commented about the driveway access from Bradford Street and requested that stabilization of the hill to the west of Nickerson Street be provided during the construction process, John Lynah, an abutter, expressed concern about the stability of the hill as well. Anne Howard, the Building Commissioner commented on the need to stabilize the hill, so as not to impact the houses on the west side of Nickerson Street. There were no letters in the file

Board Discussion: The Board questioned Attorney Reid and Mr. Fiodarau about the hedges on the west side of the property and the location of the lot line in relation to the hedges and for clarification as to whether the hedges would be removed, as they provide privacy for an abutting property. Attorney Reid said that the applicant would look into keeping the hedges and if it were not feasible, they would be replaced with vegetation of the same height. The Board expressed a concern regarding drainage from the hill and the location of the patios in respect to the hill, specifically if they required cutting into the hill. Attorney Reid contended that her client would be reducing impact of structures on the hill by locating the structures in a different area of the lot. Fill would be provided to make the proposed patios flush with the ground and will not impact the hill. Attorney Reid was asked about a mature tree, which she had noted would have to be removed, and 2 pine trees on the property. She said that she would have to check as to whether the pine trees will be saved or not and will confirm their location on the site plan. It was asked if the Fire Chief had weighed in on the project in regard to the adequacy of access and turn-around capability for emergency vehicles, as well as the location of the nearest hydrant and Attorney Reid stated that he had not as of yet. The Board requested that the following information be provided:

- a letter from the Fire Chief regarding access for emergency vehicles and the location of the nearest hydrant;
- the location of the drywells and the downspouts;
- whether the hedges on the west lot line will be removed;
- confirm the location of the 2 pine trees and whether they will be saved;
- the boundary of the shelled driveway and label the driveway as 'shell' on the site plan;
- cut sheets for the exterior dark sky compliant lighting fixtures;
- define Lot 5A (cul-de-sac) and revise the landscape plan to show vegetation in that area and define the driveway in relation to that area;
- a construction detail for the timber retaining wall in the corner of the property; and
- a limit of work line on the site plan.

There was a motion by Ryan Campbell to approve the Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws for the development of two or more residential units on a parcel located at 168 Bradford Street Extension with the conditions that the hedges on the west lot line will remain or be replaced with a hedge of similar height to provide privacy for the neighbors, that the fire access and hydrant location be confirmed with the Fire Chief, that existing trees to be removed be

confirmed on the site plan, that the shell driveway surface to be noted on the site plan, that the southwest corner of the site plan be defined with regard to driveway area versus planted area, that downspouts and drainage wells be noted on the site plan, that details for the landscape retaining wall system be provided, that the limit of work line be defined on the site plan and that dark sky compliant light fixture cut sheets be provided for all exterior fixtures. Steven Baker seconded. VOTE: 4-1-0. (Grace Ryder-O'Malley opposed).

There was a motion by Ryan Campbell to approve the 2 waivers, for curb radii and width of driveway, as requested. Steven Baker seconded. VOTE: 5-0-0. David Abramson will write the decision.

3. Work Session:

a) **Discussion of proposed By-Law Amendments for April 2018 Town Meeting:** Mark Hatch, Rik Ahlberg, Tom Donegan and Ray Raguglioso joined the discussion of the amendments. Mr. Gardner highlighted his recent revisions.

Patrik Jonsson, of Curaleaf Massachusetts, Inc., spoke about the proposed marijuana by-law and the inability of his company to convert to retail marijuana sales if the proposal were passed. The Board suggested no changes.

Mr. Ahlberg introduced the Formula Business by-law revision. The Board discussed the proposal with Mr. Ahlberg. The Board discussed changing the definition of a campground as recommended by Mr. Hatch. The Board declined to sponsor this article.

b) **Discussion of potential Zoning By-Law amendments for Fall 2018 Town Meeting and/or Spring 2019 Town Meeting.** Tabled.

c) **Pending Decisions:**

i) **PLN 18-14 (Ryan)**

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**. Ryan Campbell read the decision. *There was a motion by Grace Ryder-O'Malley to approve the language as amended. Brandon Quesnell seconded. VOTE: 3-0-0.*

d) **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). This topic will be discussed in the spring.

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 February 8, 2018.**

February 8, 2018: *There was a motion by Steven Baker to approve the minutes as amended. Ryan Campbell seconded. VOTE: 6-0-0.*

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

4. Information items:

a) Food truck survey data – for future discussion: Tabled.

Brandon Quesnell moved to adjourn the Planning Board meeting at 12:00 A.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
David Abramson, Chair