

PLANNING BOARD

Meeting Minutes

Thursday, July 26, 2018

Judge Welsh Room

6:30 P.M.

Members Present: David Abramson, John Golden, Steven Baker, Brandon Quesnell, Ryan Campbell and Albert Carey.

Members Absent: None.

Staff: Ilana Quirk, Esq. (Town Counsel), Jeffrey Ribeiro (Town Planner) and Ellen C. Battaglini (Permit Coordinator).

Chair David Abramson recused himself from the Executive Session because of a conflict of interest. Vice Chair Steven Baker called the meeting to order at 6:30 P.M.

1. Executive Session

Mr. Baker declared, under G.L. c.30A, §21(a)(3), that the purpose of the Executive Session will be to discuss strategy with respect to threatened litigation regarding a site plan Special Permit modification application for 350 Bradford Street, as doing so in Open Session may have a detrimental effect on the litigation position of the Planning Board. The Board shall return to Open Session at the conclusion of the Executive Session.

Vice Chair Steven Baker moved that the Planning Board go into Executive Session pursuant to M.G.L. c. 30A, s. 21(a)(3) for the purposes and reason he has so declared and that the Board return to Open Session at the conclusion of the Executive Session.

Cathy Kucinkas challenged the motion. Attorney Quirk explained that given the reasons so declared by the Vice Chair, the Planning Board was within its right under the Open Meeting Law and that it was appropriate to do so given the notice of the Executive Session that was posted. She advised that this was not a public hearing, but the Board had the discretion to hear an objection from the public. The Board allowed Ms. Kucinkas to speak. She objected to the Board's stated reason to go into Executive Session, stating that there was no supporting information regarding threatened litigation that would allow the Board to rightfully do so. The Board took her objection under consideration.

A roll call vote to go into Executive Session was taken: Brandon Quesnell: Yes; Albert Carey: Yes; Steven Baker: Yes; John Golden: Yes and Ryan Campbell: Yes.

Vice Chair Steven Baker called the Public Hearing to order at 7:30 P.M.

2. Public Comments:

None.

There was a motion by Steven Baker to take the pending decision for 350 Bradford Street, PLN 18-31, out of order. John Golden seconded. VOTE: 5-0-0.

There was a motion by Steven Baker to reconsider PLN 18-31.

Mr. Quesnell made a point of order that Mr. Baker was in violation of Robert's Rules of Order, Article 6, Section 36. *There was a motion by John Golden to reconsider the pending decision for 350 Bradford Street, PLN 18-31. Ryan Campbell seconded. VOTE: 4-1-0 (Brandon Quesnell opposed).*

PLN 18-31 (Reconsideration)

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**.

Ryan Campbell suggested that a condition of any approval should be a restriction on the height so as not to exceed 2.5'. John Golden suggested that the elevation be calculated from grade as it exists today.

There was a motion by Steven Baker to grant a 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 with the conditions that the increase in height of the roofs not exceed 2.5' and that the existing grade be used to determine height. Ryan Campbell seconded. VOTE: 3-2-0 (Albert Carey and Brandon Quesnell opposed). The motion fails.

3. Public Hearings:

a) 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**. Attorney Lester J. Murphy requested that the applicant be allowed to withdraw the application without prejudice. *There was a motion by John Golden to grant the request to withdraw PLN 18-19 without prejudice. Steven Baker seconded. VOTE: 4-0-0.*

David Abramson resumed his position as Chair.

b) PLN 18-28 (request to postpone to the meeting of September 13th)

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 continue the matter to the Public Hearing

of September 13, 2018. *There was a motion by Ryan Campbell to postpone PLN 18-28 to the Public Hearing of September 13, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.*

c) **PLN 18-29** (*request to postpone to the meeting of September 13th*)

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 continue the matter to the Public Hearing of September 13, 2018. *There was a motion by Ryan Campbell to postpone PLN 18-29 to the Public Hearing of September 13, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.*

d) **PLN 18-33** (*request to continue to the meeting of August 9th*)

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**. There was a request from the applicant to continue PLN 18-33 to the August 9, 2018 Public Hearing at 6:30 P.M. *There was a motion by Ryan Campbell to continue PLN 18-33 to the Public Hearing of August 9, 2018 at 6:30 P.M. Steven Baker seconded. VOTE: 5-0-0.*

e) **PLN 18-34** (*postponed from the meeting of June 28th*)

Application by **Anne Nagle**, on behalf of **Verdant Medical, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment on the property located at **44 Capt. Bertie's Way**.

f) **PLN 18-35** (*postponed from the meeting of June 28th*)

Application by **Anne Nagle**, on behalf of **Verdant Medical, Inc.**, requesting Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment on the property located at **44 Capt. Bertie's Way**. The Board will hear PLN 18-34 and PLN 18-35 together. John Golden and Steven Baker invoked the Mullin Rule, attesting to the fact that they had watched a video recording of the previous hearing of the matter. David Abramson, Steven Baker, John Golden, Brandon Quesnell, Ryan Campbell and sat on both cases.

Presentation: Becca Rutenberg, representing Verdant Medical, Inc., Tito Jackson, Chief Executive Officer, Nathan Langlais, of BKA Architects, and David Yulian, Esq., an attorney representing the applicant, and Annie Nagle, Chief Operating Officer of Verdant Medical, Inc., appeared to discuss the application. Ms. Rutenberg reviewed the revised plans based upon the Board's recommendations, including reconfiguring the site plan to move the 18' driveway to the westerly side of the site, providing pedestrian sidewalks along the roadway, providing a concrete, accessible walkway from the exterior sidewalk down into the building, denoting the location of the propane tank in front of the building, enhancing the vegetated buffer protection from the residential site to the east of the property and the installation of a specific type of bike rack for 14 bikes on the site. She stated that the applicant was open to adding more racks if required by the Board. She then reviewed updates to the floor plans, including adding a larger

vestibule and lobby on the first floor to eliminate any queuing issues and adding public accessible rest rooms on the first floor. The second floor has been modified to accommodate the changes on the first floor and an IT closet has been added. Window information has been submitted and the lighting plan has been revised. She said that the proposed sign will be discreet and for way-finding purposes only and the generator will be located next to the bike racks.

Public Comment: None.

Board Discussion: The Board questioned Ms. Rutenberg. The Board recommended either U-shaped or post and ring style bike racks for 14 bikes. Mr. Ribeiro said that the Fire Chief has not yet reviewed the revised site plan, however the layout was consistent with his requirements for fire safety and emergency purposes at other sites. He reviewed his staff report on the project, including his proposed conditions for the Board's consideration. The Board reviewed each of the conditions. Ms. Rutenberg said the applicant would be open to burying the propane tank and agreed to the generator testing hours between 12:00 P.M. and 4:00 P.M. on weekdays. Ms. Rutenberg confirmed that the windows were made with ballistic grade glass.

There was a motion by Ryan Campbell to grant a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change in use of a structure to a retail marijuana and to approve the site plan pursuant to Article 4, Section 4010, Administrative Site Plan Review, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment at the property located at 44 Capt. Bertie's Way with the conditions as discussed. Steven Baker seconded. VOTE: 5-0-0. Brandon Quesnell will write the decision.

g) **PLN 18-36** (*request to withdraw without prejudice*)

Application by **Kieran Healy**, on behalf of **Marolima East, LLC**, 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 construction of a new building requiring the excavation, land removal or earth-moving of more than 750 cu. yds. that will alter the topography from natural grade at the property located at **828 Commercial Street**. There was a request from the applicant to withdraw PLN 18-36 without prejudice. ***There was a motion by Steven Baker to grant the request to withdraw PLN 18-36 without prejudice. Ryan Campbell seconded. VOTE: 5-0-0.***

h) **PLN 18-37** (*request to withdraw without prejudice*)

Application by **Kieran Healy**, on behalf of **Marolima East, LLC**, 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 building in a high elevation protection district on the property located at **828 Commercial Street**. There was a request from the applicant to withdraw PLN 18-37 without prejudice. ***There was a motion by Steven Baker to grant the request to withdraw PLN 18-37 without prejudice. Ryan Campbell seconded. VOTE: 5-0-0.***

i) **PLN 18-38**

Application by **Ted Smith, Architect**, on behalf of **Robert Biddleman**, requesting Site Plan Review pursuant to Article 2, Section 2320, High Elevation Protection District, of the Zoning By-Laws for the renovation of the second floor of a structure, including enclosing an existing deck to create a screened-in porch on the south elevation at the property located at **13 Creek**

Round Hill Road. David Abramson, Steven Baker, John Golden, Brandon Quesnell, Ryan Campbell and sat on the case.

Presentation: Ted Smith appeared to present the application. Mr. Smith reviewed the application, which includes the re-configuration of a roofline on the southerly portion of a structure and the conversion of a second floor deck on the northwest corner to an enclosed porch. He argued that the changes were minor and would not make the structure higher or affect the footprint of the structure. He reviewed each elevation change.

Public Comment: None

Board Discussion: There were no questions for the applicant. Mr. Ribeiro's staff report stated that, "The structure's architecture is dominated by a tower-like central massing dividing the building into three separate sections. The creation of the screened porch will have little effect on the appearance of the structure due to its location and that it will likely only be viewed front-on from Province Lands Road. The southerly portion of the building will have a more significant increase in apparent mass, but it still provides for a sloped roof facing the street, a change in materials to differentiate itself from the rest of the building, the division of the vertical façade with architectural elements, and a height not significantly greater than the other portions of the building." It concluded that the project meets the applicable review criteria *There was a motion by Steven Baker to approve the site plan pursuant to Article 2, Section 2320, High Elevation Protection District, of the Zoning By-Laws for the renovation of the second floor of a structure, including enclosing an existing deck to create a screened-in porch on the south elevation at the property located at 13 Creek Round Hill Road. Ryan Campbell seconded. VOTE: 5-0-0.*

3) Work Session:

b) **PLN 18-40** (*postponed from the meeting of July 12th*)

Application by **William N. Rogers, II**, on behalf of **Jonathan Sinaiko**, for the endorsement of a plan believed not to require approval (ANR) to divide a lot into Lot 1, conforming in minimum lot size and frontage requirements of the Provincetown Zoning By-Laws, and Lot 2, to be conveyed to the Provincetown Conservation Trust at **292 Bradford Street (Assessor's Map 15-3, Parcel 109)** in accordance with M.G.L. c. 41, s. 81P.

Presentation: William N. Rogers appeared to present the application. He reviewed the ANR plan.

There was a motion by Ryan Campbell to endorse the ANR to divide a lot into Lot 1, conforming in minimum lot size and frontage requirements of the Provincetown Zoning By-Laws, and Lot 2, to be conveyed to the Provincetown Conservation Trust at 292 Bradford Street (Assessor's Map 15-3, Parcel 109) in accordance with M.G.L. c. 41, s. 81P. John Golden seconded. VOTE: 4-1-0 (Brandon Quesnell opposed).

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

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).

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 June 28, 2018.**

June 28, 2018: *There was a motion by Steven Baker to approve the minutes as written. John Golden seconded. VOTE: 5-0-0.*

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

4. Information items:

Food truck survey data – for future discussion: Tabled.

Brandon Quesnell moved to adjourn the Planning Board meeting at 8:45 P.M.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2018
David Abramson, Chair