

**PLANNING BOARD
MEETING MINUTES**

NOVEMBER 18, 2021

2023 NOV -1 AM 4:01
TOWN CLERK BOURNE

RECEIVED

PRESENT: Daniel Doucette, Elmer Clegg, John Carroll, Elizabeth Brown, Jeanne Azarovitz, David O'Connor, Christopher Farrell

STAFF: Coreen Moore, Jennifer Copeland

ALSO PRESENT: Rick Carboni, Steve White, James McLaughlin, Zachary Basinski, Jason Pignone, Joe Longo, Judith Froman, Daniel Chauvin, Colleen Kelleher, Gregory Leach, Jack Landers-Cauley, Greg Wirsén, and other members of the public.

LOCATION: Bourne Community Building, 239 Main Street, Buzzards Bay, MA

Daniel Doucette called the meeting to order at 7:00PM.

1. Meeting Minutes: Sept 23, 2021

Ms. Moore- Offered corrections to September 23, 2021 minutes.

Mr. Clegg- Asks for process for reviewing minutes.

Ms. Moore- Comes to our office first where we review them. We see the minutes first.

Motion made to accept the minutes as amended by Mr. Carroll, seconded by Mr.

Clegg. Ayes have it with Mr. Farrell abstaining for not being present.

2. Public Hearing, Special Permit #21-2021

225 Main St. Buzzards Bay, conversion of a commercial building to residential building. Don Bracken of Bracken Engineering and the applicant and owner Steve White present to discuss the special permit.

Mr. Bracken- Introduces himself and the applicant. Explains that this is a post-facto filing. The site is Betty Anne's Dairy Freeze. In 2005-06 a permit was issued to relocate the old put-put golfing building back in the lot to create a larger parking area. The permit was submitted as a commercial use for storage and a gift shop. Property was eventually turned into a residential structure and in 2015 Mr. White bought the property expecting to use it and occupy it as a residential structure. Found out later through his attorney that he was occupying it illegally. Contacted Bracken Engineering to permit the project to continue to occupy it. It is an allowed use under the Zoning Bylaw. Facto of non-compliance is that it is too small. Must be a minimum of 500 sq. ft. Would prefer not to do an addition but will if it makes it compliant. Will need to file for a new building permit, this needs to go through the complete permit process and this is the first step.

Discussion

Ms. Brown- Site visit was conducted with staff and the structure is 426 square-feet (SF). The primary issue is a lamppost that needs to be moved.

Mr. O'Connor- What happens to Betty Anne's restaurant?

Mr. Bracken- Nothing, Mr. White will continue to own and operate.

Mr. O'Connor- Base Flood Elevation for this location?

Mr. Bracken- it is elevation 16 in an AE flood zone. Addition would have to be separate and raised up a couple of ft.

Mr. Clegg- Basic foundation is out of compliance with flood plain regulations; addition will increase the size by 33%. Addition is non-trivial. Does existing foundation as is, need any requirements?

Ms. Moore- That is a building inspection standard.

Mr. Bracken- When the foundation was originally built and moved in 2005-2006, the flood maps were different and it wasn't in a flood zone. If a structure is built that way you can add onto it as long as it complies. Plan here is to comply with the addition.

Mr. Clegg- Where is the entrance to the house?

Mr. Bracken- Entrance won't change.

Mr., Clegg- Wants to see what side the sliding door is on. Doesn't want it facing the parking.

Mr. Bracken- Slider is going on the addition.

Mr. Clegg- Betty Anne's and this building is on the same lot. Granted an easement for an 18 ft. right of way to the house sitting behind on 225A. Survey work makes it appear that this right of way is partially on the land of 227. Should it be re-located? Asks abutter present at the meeting if there are any problems.

Abutter- Whatever works, has no problem.

Mr. Farrell- What's the elevation distance between existing and planned addition? Seems pretty high.

Mr. Bracken- Around 17.5-18. There are other options, does allow floor system if water proof, building code does allow if waterproof.

Mr. Carboni- Abutter. Owns the Bay Motor Inn, had similar conversation with Planning Board in 2015. Have no problem with plans.

Ms. Brown- Planning Board finds that the project is consistent with zoning bylaw regulation and special permit criteria. Determined to be an allowed use. Will not have an adverse effect.

Motion by Ms. Brown to approve with following conditions:

1. Defer to Bourne sewer commissioners regarding wastewater capacity.
2. Coordinate with appropriate numbering, lettering, and wording of building.
3. Emergency access as per the fire department, fire safety regulations must be met.

Seconded by Mr. Carroll, requires a roll call vote:

Mr. Carroll- Yes Ms. Azarovitz- Yes Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes Mr. Farrell- Yes

Mr. Doucette- Yes

Yes votes are unanimous. Motion passes.

3. Public Hearing, Modification to a Special Site Plan #02-2021

227 Main St. Buzzards Bay, Zoning DTC to create a vacant buildable lot under zoning bylaw 2830, table 2831 and section 3838. Proposed reduction of lot width 25 ft. rather than 40 ft.

Mr. Bracken here with the applicant: James McLaughlin

Mr. Bracken- Site plan approval to redevelop building into two two-bedroom apartments and a first floor office space. Project changed during covid, best option might be first floor residential unit, was approved as long as it was a handicapped unit. Project completed. Second phase, what will go on rest of property. Approach the project in steps - first step: subdivide property and evaluate options at some other point. Will require site plan review in the future. Went through dimensional requirements, no definition for lot width in the Zoning Bylaw, our original interpretation is the lot didn't

need frontage, no frontage specified, lot has lot width if you excuse neck now created. Ms. Moore stated that the bylaw did require 40 feet of frontage. Asking for 25 ft. Width and frontage. Minimum lot size is 3500, proposed lot size of 14758 sq. ft. more than adequate. Leaves 12776 sq. ft. for the front building where the existing lot is. Zoning summary on maps in the plan. Front complies with zoning requirements. In a flood zone must also comply with that.

Discussion:

Mr. Carroll- to get the acceptance, need to meet a couple of the requirements. There's a list of things that might qualify.

Mr. Bracken- Will go through the list:

1. Development supports mixed use development where appropriate. Assumes Plans will comply with zoning requirements.
2. Development develops or maintains pedestrian access to outdoor spaces. Difficult not having a particular project, imagines some of these requirements weren't geared to the special permit they're asking for.
3. Development contributes to the historic maritime downtown area. No real significance to this property.
4. Development minimizes or eliminates curb cuts or driveways. Uses same curb cut there.
5. Development provides or preserve public views and spaces to the waterfront. Not applicable.
6. Development provides for/continues to provide for alt. transportation or travel demand management. Would meet due to proximity to all the businesses in the area. Other projects meet that.
7. Development provides housing at affordable levels. Most likely, the most feasible use will be housing. When that is decided, the plans will most likely meet this requirement.

Mr. Carroll- Walked around the property. It seems that the all the work done is excellent from construction to landscaping. Meets one or more requirements. Motion to grant the request as it meets the necessary requirements.

Mr. Doucette- Wants to ask if any questions from the board and crowd first before making the motion

Floor Open for questions:

Mr. Clegg- Lot 2 sub-divided from lot 1. 25 ft. wide pipe stem. Part of lot two to make the total lot the 14758 ft. But the real buildable part of lot is 10,500 sq. ft. concerned if there will be enough room for parking. Doesn't see commercial use. Comment on parking and enough space?

Mr. McLaughlin- Doesn't see why that'd be a problem. Conception is a duplex with 4 parking lots. Nothing in the plans for a large building with a lot of parking.

Mr. O'Connor- Point of information: shape factor involved with what looks like a hockey stick shaped lot? Does that apply here?

Ms. Moore- Downtown is not applicable like outside downtown. 3 step process: asking for relief now, if they get it they will have to go to planning and take out an A&R Plan because the frontage with special permit. Then they will come back with a special permit site plan review.

Mr. Farrell- Due to multiple well done, downtown projects done by Mr. McLoughlin, supports this.

Mr. Carroll- Not inclined to have any additional requirements for this request due to past favorable performances. Supports as it stands. This is the motion seconded by Ms. Brown

Mr. Clegg- Fire safety apparatus access?

Ms. Moore- falls under Site Plan Review.

Mr. Doucette- No more questions or comments.

Roll call vote issued:

Mr. Carroll- Yes Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes

Mr. Farrell- Yes

Mr. Doucette- Yes

The motion passed unanimously 7-0.

4. Public Hearing, Sit Plan Review and Special Permit #19-2021

2 Kendall Rae Place: Zoning District, downtown core for a multi-story mixed use building.

Attorney Jilian Morton- Representing this Special Permit. One bid for peer review has come in and the applicant is in favor of said bid to be discussed later in the meeting. Zoning review issues regarding the bylaws are a special permit for height for the parking, and for residential in the whole building of building two. First floor would be commercial.

Jason Pannone, Oxford Development Group- introducing the project team and the project.

Joe Longo also a part of the team present to answer questions. Important to project: addressing the concerns related to the landscape piece. Town's needs are housing and adding more commerce, project supports those needs.

Model- 192 residential apartments, 26,000 sq. ft. of commercial space, a mixed use of retail and office space, and space for a restaurant. Direct view to canal and bridges, access to bike path, green spaces. The close vicinity to Boston will make this property popular as well.

Attention now given to power point projection on the project.

Mr. Longo- shows location, maps, drawings, and plans of the project. Some concerns: utilities, dumpster and snow removal, these have been addressed. Updated plans have addressed past questions such as some of the outdoor hardscapes and clean up area between planned project and the Hampton Inn.

Floor open to questions.

Mr. Farrell- Will wait for peer review before more comments and questions.

Mrs. Moore- With bid accepted we can get that process moving in a timely manner.

Mr. Farrell- Has peer review offered a time frame?

Mr. Longo - Dec. 21st or 22nd.

Mr. Clegg- thinks town would be best served if traffic review done by the Cape Cod Commission. Would it negate peer review or supplemental?

Mr. Doucette- We can ask them to be our experts.

Mrs. Moore- Supplemental. We wouldn't want to make them a lead on the project.

Mr. Clegg- He would like traffic information.

Ms. Moore- Last meeting discussed to go for Peer Review.

Mrs. Clegg- Believes we discussed and approved getting the quotes but would not issue a contract for peer review.

Made a motion that the Planning Board ask the Town Planner to engage with Cape Cod commission for technical assistance for the traffic portion of peer review. Seconded by

Mr. Farrell, no further discussion. Ayes by all members, motion passes.

Mr. O'Connor- as part of Design Review Committee (DRC), have been looking at this for a while, should set framework. Peer Review handles details and technicalities.

Presumably this project will come before sewer commissioners. Fair warning, town interested in getting more civic benefits. Doesn't see any benefits regarding open space or outside meeting. Going through this project, identified eight bylaws this project needs relief on. There may be some rough goings ahead.

Ms. Brown- Knows these will be the tallest buildings in town; however the views will not be utilized. Feels like there should be more on this space. Restaurant on top floor maybe, or other ways to take advantage of the height.

Mr. Clegg- Thought we were looking at 5 story building, actually is 6 stories. Where is another 6 story residential/commercial building on Cape Cod?

Mr. Longo - Doesn't know, possibly those building in Wareham on the Cranberry Bogs.

Mr. Clegg- Need to reach out to town. Only two other 5 story buildings on the upper cape and none on lower cape: Admiral T. Apt. Building & Cape Cod Hospital. Cape Cod Hospital tower is now going to be 4 stories high. No other 6 story building on Cape Cod. Is this what we want?

Mr. Doucette- Used to be a 5 story hotel in Monument Beach and there were other large structures. New Downtown Zoning laws created to encourage growth to get 4 stories by right, can do 5 or 6 by special permit. There is no cap, adding a few floors are not a huge stretch. These Zoning Bylaws were approved unanimously.

Mr. Farrell- Four out of six dormitories at Mass. Maritime is now 6 stories. First time a Planning Board Article passed unanimously. Article kept the downtown condense just allows people to build up. Explanation was to keep sprawl down which made people comfortable to approve the article. Have already explained to the town's people, we can again however.

Ms. Moore- Did extensive downtown study/workshop/survey on certain views in downtown. Made a cap on height, so we made a special permit option to be subjective to planning board. Never approved a 6 story building because it's never came before the board before. There's a large vision plan. These bylaws were vetted to the town through these studies.

Mr. O'Connor- On the canal is different to on Main St. Flooding could be issue. With other additions to the top of the building, it is close to a 7 story building. Board needs to discuss if 7 stories is in the vision plan.

Mr. Farrell- Went up in ladder truck for the studies. When brought to developers, they were excited about possible views available now. View increases value.

Ms. Brown- Monolithic look of building is undesirable. People in building have a nice view.

Mr. O'Connor- as a Board, we have to decide if this site is conceptually different than Buzzard's Bay? Is having the building set back 280ft. behind an acre and 3/4s of parking appropriate? What if MMA gets a good price to sell that property? What if we miss out on this buildable property?

Mr. Clegg- Please repeat the height and the parapet?

Mr. O'Connor- In application, roof membrane 79 and change. 4 ft. parapet makes it over 80ft. which is functionally a 7 story building.

Mr. Clegg- Hotel is 61 ft. to ridgeline.

Mr. O'Connor- Makes hotel into high 70s. Absolute elevation of proposed building is 83 Ft.

Mr. Longo- Comparison to Hampton Inn is an 8ft. difference making it 8 feet taller.

Mr. O'Connor- will architecture reflect a 16ft. finished floor, right now it's at 18 ft.?

Mr. Pignone - Unsure, will confirm with architect.

Mr. Farrell- needs to be confirmed before Peer Review.

Mr. Clegg- How many buildings will you see from ground level to top?

Mr. Pignone - Unsure as well, will confirm that as well and get back to the board.

Mr. Carroll- This is a large structure needing much more consideration. Concerned with wastewater. Not too impressed at the moment.

Mr. Clegg- This project will sit on 2 designated lots? Lot 3A approved in 2017 with condition that Lot 3A to separate the cul-de-sac and reserved for future access and utilities. Building 2 resides in lot 3A stopping this project. Would have to revise the subdivision plan to accommodate this proposal.

Mr. Longo- Was a dead end originally before Kendall Rae was built then land subdivided to present state. Drainage easements are on Kendall Rae. Part of Lot 3A will take drainage from town road.

Mr. Clegg- Disagree with drainage. Center of lot 4 is where most drainage is occurring. Wants to see the two lots built up, however, lot is clearly restricted. Should be disqualified and there should be a new plan.

No more questions from the board.

Ms. Froman- Promotes this project. Has a question on workforce apartments. What is your definition?

Mr. Pannone - different formula as opposed to low income due to calculations. 80% of AMI.

Ms. Moore- Work force housing is a higher income level than affordable. Working to get regulatory agreement that it meets standards and that the units can be counted on the subsidized inventory list. Doesn't always meet that criterion.

Ms. Froman- Work force housing very important. Whole large segment of people that this building would attract.

Mr. Clegg- Town is severely lacking in workforce housing. Agreement for mix of both low-income and workforce housing would be supported.

Ms. Moore- Has to meet certain income and rental requirements. Work force housing can have different income levels. This might not be allowed to go on the subsidized inventory list. Town has been making headway on that 10% affordable housing required by state. Trying to get affordable housing with using 40Bs (inclusionary housing).

Mr. Farrell- Workforce housing can be pushed by developers for their own benefits.

Mr. Froman, audience member- Medical Unit to be built in Sagamore Beach, how many stories? Building growth may move all down the canal? Concerned with height.

Mr. Doucette- Wants to stay on topic about Buzzards Bay and no other areas of town.

Mr. Farrell- Two different zoning laws and different issues.

Mr. Froman- Feeling that Bourne is moving closer to a suburb of Boston.

Attorney Morton- Asks chair to make a Peer Review.

Mr. Farrell- Makes a motion to accept the proposal as presented for Peer Review.

Seconded by Mr. O'Connor

Mr. Clegg- Who is the bidder that contract will be awarded?

Ms. Copeland- Environmental Partners.

Motion made by Chairman Doucette to move forward, vote by board- Aye by all participating Board Members.

Mr. Doucette- When we do the final permitting, we will need the seat count.

Mr. Clegg- The original presentation talked about a mix of 1, 2, and 3 bedroom units, do you have any feel for the approximate mix?

Mr. Pannone - We don't have the full count, we averaged the amount due to parking and wastewater, and we can provide a breakdown at the next meeting. There won't be as many three bedroom units due to market studies we've done, mostly two and one.

Mr. Clegg- Looking at diagrams for building two, it appears that they are laid out as all one bedrooms. Is that true?

Mr. Pannone - It will be a mix and based on interior as we're going to configure it, it will be based on the market studies we've done.

Mr. Clegg- had to assume some mix.

Mr. Pannone - Yes we had to assume some. We tried to design it so that we can combine rooms to make it two or three bedrooms.

Mr. Clegg- isn't there a requirement for so many square feet per dwelling unit?

Ms. Moore- That will be a part of the review.

Mr. Clegg- Could you discuss?

Mr. O'Connor- Here's my take, section 2831 table DTDd2 downtown site and building dimension standards, the base residential density is 1DU per 2100 sq. ft. Special permit is 1DU per 2000 sq. Feet. We can go beyond that if benefits are there. 10% are affordable, density drops to 1500 DU. Proposal is 192, DU is 1 per 925 sq. ft. Going forward town benefits, no space on the site for any benefits. Commercial opportunities are there through the canal. On paper benefits are there but will it actually benefit the town.

Ms. Brown- One benefit to town would be to fix the road, the intersection there. It won't work the way it is now. Could be part of the discussions.

Mr. Farrell- I believe that approval of peer review needs a roll call vote, because we are entering into a contract.

Roll Call Vote:

Peer review to Accept:

Mr. Carroll- Yes Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes Ms. Brown- Yes

Mr. Farrell- Yes

Mr. Doucette- Yes

The motion passed unanimously 7-0.

Continuing is date specific- Motion made by Mr. Farrell seconded by Mr. Clegg to move further discussion moved to January 13th, 2022.

Vote by board- Ayes by all attending members.

5. Public Hearing, Request for Extension of Special Permit #04-2019X

21 Canal St. SCOD overlay district due to Covid 19 related delays.

Greg Wirsen representing Greens Hill Environmental LLC as well as the applicant 21 Hunters Brook Rd. Inc.

Mr. Wirsen- 60 days after went through special permit and site plan review Covid hit. Have pressed forward and received all mass highway permit, refinanced the property as well. Partners have backed out due to Covid. Changes regarding HVAC, etc. Looking at designs but we are committed to the project. All set with tendency in the medical office building. Here today to request an extension as it states in condition 13 of our site plan review and special permit approval. It will lapse in two years from the granting of the special permit unless substantial construction has not commenced except for good cause. Upon written request the owner and applicant made for good cause, the Covid emergency order left them dead in the water. Requesting a two year extension of special permit. Will supply progress reports if requested. There is significant infrastructure so we don't want to go in, get started, and leave the project half done. No plans are being changed, haven't had any changes with footprint, size, etc. Status quo for what was approved in December 2019.

Mr. O'Connor- What is the Height?

Mr. Wirsen- doesn't have exact number but believes it is 45 ft. Whatever was applied for in the profiles? Only 20 ft. taller than your basic two-story home. One Building is a partial 4 story. Medical office building is three stories.

Mr. Clegg- What physical work has been accomplished?

Mr. Wirsen- None, don't want to do any cutting or anything until ready to go.

Mr. Clegg- You did go in there and did some clearing correct?

Mr. Wirsen- Yes we built a road and left some geoengineering equipment.

Mr. Clegg- How has drainage been with that roadway?

Mr. Wirsen- Haven't heard anything. Anything in the road that we cleared put 1 and 1/2 inch stone back there. Haven't heard complaints about any erosion or anything.

Mr. Farrell- Not the first project where we've heard of financiers or developers backing out because banks are shaky on granting loans if they're not sure on absolute numbers.

Mr. Wirsen- Have done some refinancing, so banks are interested.

Scott Froman- Question on height, what happens when other people want to build large buildings in that district?

Mr. Farrell- They're different zones and it's not allowed.

Scott Froman- What if they get a variance?

Mrs. Moore- Zoning Board of appeals grants variances.

Scott Froman- Other concern of neighbors, concerned we'll be looking at Town houses. Want a separation between commercial and residential. Doesn't feel there's a concern for residential.

Mr. Wirsen- Phasing plan agreement doesn't allow for the town houses at this moment. Second thing is we agreed to construction access coming in to the bridge wont build bridge to build town homes. There's a housing crisis. Agreed that we'd keep a swath

well off the road of 100 ft. Building a buffer to local residents. Building town homes worth is something to consider, but we are sticking to the plan phasing it properly. Wouldn't be prudent to come back and request those changes as it goes to phasing. Mr. Froman- You had the financing but it doesn't exist anymore. How are we sure you have the money to build it?

Motion to approve the 2 year extension for good cause as made by the applicant by Mr. Farrell, seconded by Mr. O'Connor. Roll Call Vote:

Mr. Carrol- Yes

Ms. Azarovitz- Yes

Mr. O'Connor- Yes

Mr. Clegg- Yes

Ms. Brown- Yes

Mr. Farrell- Yes

Mr. Doucette- Yes

Motion to adjourn the meeting by Chairman Doucette, seconded by Ms. Brown. Ayes by all members.

