PLANNING BOARD MEETING MINUTES
October 24, 2019

PRESENT: Steven Strojny, Elmer Clegg, Daniel Doucette, John Carroll, Sandra Goldstein, Jeanne Azarovitz, Elizabeth Brown, Lou Gallo, Shaun Handy (alternate)

STAFF: Coreen Moore, Jennifer Copeland

PUBLIC: Zac Basinski, Paul Gately, Jim Mulvey, Wes Ewell, Ford O'Connor, Beth Ellis, Richard Thrasher, William Harwood, Dave Neal, Heather Smith, Karin Callis, Ben Zehnder, Don Hayward, Russell & Erin Salamone, Randy Collette, James Berry, Scott Conlon, Sean Cully, Geroge Seaver, Linda Zuern, Dan Morman, Peter Meier, Craig Andrews, Kathryn Andrews, Steven Hamilton and other members of the public

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Chairman Strojny called the meeting to order at 7:08pm.

Minutes: 9/26/19: Mr. Gallo made a MOTION to approve, seconded by Ms. Azarovitz with seven in favor, one abstention.
10/10/19: Mr. Gallo made a MOTION to approve, seconded by Ms. Brown. Mr. Clegg wants more clarification on 85-93 Main St about Mr. Michienzi making a statement about the auxiliary parking lot and agreed to my objection and taking it back to pavement. Suggest defer to next meeting.
Mr. Gallo withdrew his motion, Ms. Brown withdrew her second.

Public Hearing for Amended Site Plan Review/Special Permit #02-2019A: Cont'd from 10/10/19: 85-93 Main St. Modification of first floor layout, addition of a second floor, elimination of storage building and brewery tank enclosure, modify patio area.

Zac: Met with Coreen, all plans are updated and reflect changes from other boards. The auxiliary parking lot, the reason it was changed is due to ConCom. Couldn't do rain garden design with the new stormwater regulations. Sat with Coreen and concur with previous pavement meets the bylaw and adequate surface. Still reflected on the plan. Seat counts are on the plan. Believe all comments addressed.
Coreen: Addressed comments. DRC – Done; FD – met; Revision dates – done; stormwater design – done; remove patio/pergola behind 85. Switched to gaming with stone; behind building changed to asphalt, less impervious now. ConCom is reviewing stormwater and will get the final report to you after. Lighting – put back on plans; handicap spaces – 3% on plans; architectural plans/numbers submitted; Seating on the second floor – overflow seating most intense for parking. Final use up to the building dept, once we know the tenant and use.
If the Planning Board approves seating, changes will come back to the Board. Auxiliary parking lot – concerned we wouldn't allow pervious pavement. Looks like pavement but it's pervious. Sec. 2852 – not gravel lot, this looks like bituminous. The Army Corps lot has this material. Maintenance needs to be done on that pavement. Reinstall inlet open overflow in case backs up. Overflow swale discussed with ConCom.
Zac: Old driveway, graded to existing catch basin.
Coreen: Withdraw inlet comment. Second floor took to the DRC and incorporated into the plan and will be plan of record with DRC.

Mr. Clegg: Rain garden, primary lot, still have two rain gardens? Why did ConCom object to more?
Zac: Yes, they are staying. Preexisting conditions based on gravel lot. Use old house that was there. Rain garden got too big.

85-93 Main St. Cont'd:

Mr. Clegg: Take out rain garden to achieve the parking. Sec. 2852 minimize need for impervious surfaces (h). All off street surfaced with asphalt…no pervious in regards to parking. 1.5" binder coat, then 1" topcoat. After 2.5" surface, what will this depth look like?
Zac: 4" crushed pervious. Lay down with bigger stone which allows water to go through. This will go on top of gravel. Sand/stone not as tight as regular pavement, it is bituminous, not the same density.
Mr. Clegg: Current reclaimed asphalt. My concern just will cover it. Withdraw concern about the auxiliary lot.
Zac: Existing conventional drainage system will take the overflow. The APCC in Dennis used that for handicap access.
Ms. Goldstein: Heard about a pervious pavement made from ground up truck tires. What material are you using?
Zac: Not that.
Mr. Clegg: 2852(h) defines allowed surfaces. Sec. 3300 in the rest of the town. Are we accepting pervious asphalt as meeting Sec. 2852(h)?
Coreen: It's bituminous, just a different grade.
Mr. Clegg: I agree.

Roger Laporte: I want to introduce Ken Murphy, the new Inspector of Buildings. We went to the site, ground up. Agree with the plan. Building code requirements it meeting.
Mr. Clegg: How arrive as the second floor for overflow only?
Roger: Not used often. Probably mostly storage. When it rains, etc, those people will wait to come in. Learn from previous projects.

Mr. Doucette made a MOTION to approve subject to the following conditions:

A. The Planning Board has found that the issuance of the special permit is consistent with the general district design and performance objectives also that the development meets one or more of the criteria of section 2827 as follows:
    a. The development maintains or improves pedestrian access and outdoor public spaces.
    b. The development provides or preserves views from public ways.

B. The off-site parking and reduction has met the intent of section 2854 by providing public parking within 300 feet of the principle land use and the public parking lot has ample spaces available to serve the immediate area.

1. The Board has determined that the off-site parking and parking reduction is sufficient for the proposed use. The special permit is granted for 128 spaces provided.

~~1.~~2. The outside seating area for serving to persons outside the building as noted on the site plan and seating layouts from Bracken Engineering dated 10/21/19 is granted.

~~2.~~3. The increase in floor area for unit #93 is approved with the determination by the building inspector that the second floor is only to be used as overflow seating.

~~3.~~4. A second floor plan shall be submitted as part of the record for this approval with a notation placed on the floor plans stating that the second floor is to be used for overflow seating only.

~~4.~~5. Unit #93 indoor and outdoor seating shall be confirmed before an occupancy permit is approved.

85-93 Main St. Cont'd:

~~5.~~6. An as-built plan must be submitted and approved by the Planning Board or its representative before the issuance of the occupancy permit. The as-built plan must depict final location of all structures and site-related appurtenances.

~~6.~~7. The applicant/owner shall be responsible for maintaining the stormwater system in a clean and well-functioning condition, and shall do nothing to which would alter the drainage patterns or characteristics as shown on the plans as approved by the Planning Board.

~~7.~~8. This approval is made in conjunction with the following dated plans and any revisions must first be approved by the Planning Board or its designee.

a. Lighting Plan by Speclines dated 1/23/19 and Specs by Kerlouan received 1/24/19 (2 sheets).
b. Sheet A1 drawn by Designs by SPB (Krua Thai 24 seats), Buzzards Bay Brewery drawn by unknown (132 inside seats & 48 outdoor seats), and VELA Juice Bar drawn by unknown (24 seats), Proposed Second Floor Plan dated 8/26/19 by Bracken Eng., Inc. Unit #93.
c. Elevations rear addition & restrooms drawn by Rescom revision date 9/25/19.
d. Set of Site Plans by Bracken Engineering dated as received 10/18/19 including:
    i. Title Sheet – 10/18/19
    ii. Construction Notes dated no change 10/18/19 sheet 2 of 9
    iii. Existing Conditions & Erosion Control 10/18/19 no change 3 of 9
    iv. Layout, Zoning and Landscaping dated rev. 10/18/19 sheet 4 of 9
    v. Grading, Drainage & Utilities dated 10/18/19 sheet 5 of 9
    vi. Auxiliary Parking Plan dated 10/18/19 sheet 6 of 9 (noted as o changes however pervious pavement added, rain garden removed, 5 spaces added in adjacent parking lot)
    vii. No title noted depicts lighting sheet 7 of 9 rev 10/18/19
    viii. Proposed pergola plan dated rev 10/18/19 sheet 8 of 9
    ix. Construction details dated 10/18/19 no change sheet 9 of 9

~~8.~~9. All findings, terms and conditions of the previous approval of SPR/SP #02-2019 remain in effect unless revised and approved by the Planning Board.

The MOTION was seconded by Mr. Gallo.
Ms. Goldstein asked if it will be sprinklered.
Zac: The whole building is.

Roll call vote as follows:

Mr. Doucette – yes	Ms. Brown – yes	Ms. Goldstein – yes
Ms. Azarovitz – yes	Mr. Clegg – yes	Mr. Gallo – yes
Mr. Carroll – yes	Mr. Handy (alternate) – yes	Mr. Strojny - yes

Mr. Clegg made a MOTION to take business out of order. The MOTION was seconded by Mr. Doucette with all in favor.

Public Hearing for a Change to the Zoning Bylaw: To see if the Town will vote to amend the Bourne Zoning Bylaws as follows, or to take any other action in relation thereto: Section 2250. Medical Marijuana and Marijuana Establishments.

Chm. Strojny: Discussion will be confined to the zoning bylaw with a limit of 2-3 minutes and stay on point. History: This is private petition. Repetitive that same bylaw as a year ago. Only way can come back is if we give a favorable recommendations. Feeling last year if allowed should have regulations on the books. If no zoning treated as a retail business and can go in any business district.
Mr. Clegg: Point of order. After closed, hold deliberation?
Chm. Strojny: Yes.
John Segar, Cataumet: Haven chose to sue the Town. Inhibit. Obliged to put off and have a proper hearing.
Ben Zender: Atty. On behalf of Haven Center. Doesn't need the zoning bylaw to open. They are grandfathered against zoning. If the ban is repealed, can go ahead and apply. Asking to endorse to give townspeople the opportunity for a zoning bylaw. We submitted the same bylaw that this Board prepared last year.
Don Hayward, County Rd: Point of order. Moratorium by the AG's office. Town in violation of the AG moratorium. The town is responsible on holding a public hearing on the adverse effects of marijuana.
Linda Zuern: Ch. 40A unfavorably acted upon. Should be considered…unless adoption is recorded final report of the Planning Board.
Chm. Strojny: Advised we take a vote and that will become the report.
Linda: If go forward, what are your reasons? Several areas in a B2 district. Like two house lots away. Could be across the street from kids. Couldn't make more restrictive at town meeting.
Vincent DiSangro: This bylaw in favor of the Haven Center. Puts marijuana in visibility. Absurdly calls selling drugs recreation, ridiculous.
Doug Osterheld: Passing zoning precautionary measure. Brewster passed a ban and zoning bylaw and sued by Haven. General bylaw was revoked. The zoning takes precedence. Would have exposed Bourne to judicial review.

Chm. Strojny: Close the public hearing aspect.
Mr. Gallo: All effort put into it. Protect citizens if don't' have it, lose protection.
Mr. Clegg: I was chair when put this together. Worked diligently for eight months. Remain impartial in coming up as a solution. Put in place to protect the town. Read lawsuits, talked to people. Bylaw we came up with I can't vote in favor of today. Question this petition is so singular doesn't qualify for a two year disturbs me. It's left to us. Ch. 40A should not come back unless adoption recommended by final report of the Planning Board. The first iteration or tonight's vote? Law is unclear. We are in litigation. Concerned any vote we take will prejudice the town. Letter to Enterprise by Mr. Smith. Rejected at town meeting, 500' from schools and yet 150' from homes which children lived. Bylaw called out max of three retail permits. Start with a limit of one and get some experience before we decide to go forward.
Mr. Carroll: Reasons still valid. Don't think can change bylaw at this meeting.
Ms. Goldstein: Town people spoke at the ballot box to legalize. Community value expressed. Nicotine, alcohol. We have a chance to modify our minds when not happy with how we feel. Don't think hysteria or fear, not in favor of bringing forward.
Ms. Brown: Idea was to put in place, more restrictive and proactive than regular bylaws. Agree with some imperfections. So flawed that it's wrong then nothing?
Mr. Clegg: Motion on the floor about not making more limiting. If thing wrong, if have a negative vote tonight. The court cases get settled. We can hold a town meeting in 45 days and bring this.

Change to the Zoning Bylaw Cont'd:

Mr. Doucette: Planning Board can't make changes. Can applicant make changes to the bylaw?

Mr. Gallo made a MOTION to make a favorable recommendation at Town Meeting. The MOTION was seconded by Ms. Azarovitz.
Roll call vote as follows:

Mr. Doucette – yes	Ms. Brown – no	Ms. Goldstein – no
Ms. Azarovitz – yes	Mr. Clegg – no	Mr. Gallo – yes
Mr. Carroll – no	Mr. Strojny – yes	

Chm. Strojny: Tie vote. The report will say we did not have a favorable recommendation.

Public Hearing for a Repetitive Petition: Heather Smith. 26 Shore Rd, Bourne. Relocation of structure and access drive.

Frank Westgate, representing the applicant. Went to ZBA in Sept. Needed Board of Health and ConCom comments, was continued to November. Applicant didn't go to that meeting. Never held up and vote o the merits of the plan. No choice but to reuse the plan. Reduced the driveway 35%, increased dwelling footprint by 10%, moved further away from the vernal pool, existing septic will accommodate both houses.
Mr. Clegg: More background of what was proposed originally?
Jen: The second structure with an apartment changed to a garage. Showing a 44' breezeway between the dwellings.
Frank: The existing system will be expanded.
Jen: Moved building to get further away from wetland.
Frank: Had to be different than what was denied. In-law had to be connected to the original house.
Mr. Strojny: He made changes, relocation seems to meet criteria.

Mr. Clegg made a MOTION that this met specific and material changes. The MOTION was seconded by Mr. Doucette with all in favor.

Public Hearing for Supportive Finding: ERS Realty Trust. 183 Shore Rd., Bourne. That the addition won't be substantially more detrimental.

Ford O'Connor: Fix the lot, improve drainage, and add storage. Need a store for people to buy more. Storage space, less trip generation, more than enough parking. Addition is shorter, no change to lighting, better traffic flow.
Mr. Gallo: Is consistent with Sec. 2320(b) and not more detrimental to the neighborhood. MOTION to support. The MOTION was seconded by Mr. Doucette.
Ford: Creating more parking than required, around back is parking. We're making the spaces access/egress will be more clearly defined.
All in favor.

Public Hearing for Site Plan Review #503: ERS Realty Trust. 183 Shore Rd., Bourne. Addition for storage and food preparation.

Ford: Will be phased, doing in the shoulder season. Will put Planner's comments on the plan.
Mr. Gallo: Building lighting on the plan, height of the building, dumpster screening, fence height.
Vincent DiSangro: It's a legal non-conforming use. Sec. 2300(a) unless a finding is made, (b) not substantially more detrimental. Places of nuisance, surface drainage, lighting, smell, noise, closer to the residences. New front comes in 27' from the edge of paving. Much bigger trucks suing and loading zone is being added. Storage and food prep area.46'x16' area which could accommodate several storage containers. No regard to neighbors. Now louder rooftop HVAC unit added, we closed windows. Phone pole with arc light installed, the power company said they don't own lights on poles, the light doesn't meet night sky. We, the neighbors, expect not to encroach on us.
Dave Neale, VFW, Been good neighbors, great staff and food. Hope it's approved.
Steve Hamilton, neighbor: Two – three times a year I go out and pick up debris. New dumpster about 25' from my back yard.
Craig Andrews, neighbor: I own behind, over 5 acres and this will diminish the value of my property. Previous owners removed trees.
Mr. Clegg: Whose property were the trees on?
Craig: Ours. Seems more a package store than anything.
Dick Lasheen: In favor. Has been there since 1969. These folks are doing a great job in the community.
Shawn Skelly, Bosuns Lane: In favor of this. Think it's opposite of diminishing. Big advocate to my property if lived nearby. Great food, more than a package store. Nothing bad about this plan.
James Very, Bosuns Lane: Thriving business today. Storage to continue to operate a thriving business. No more isles or registers proposed. Plenty of parking.
Scott Conlon, Gray Gables: In favor, not too many thriving businesses. I can walk there, grab a muffin, coffee. Scope of the project, poor decision to stymie the growth.
Vincent: As exists, decent business. None of the supporters are neighbors. Craig's property trees cut is where the addition is going. They were cut to turn around.
Mr. Clegg: The new layout, there is no parking there.
Vincent: There will be dumpsters and a loading zone so trucks will be there. This move the noise closer to the residences.
Craig: 50' right of way to access the property in back. Smell/storage units diminish the value of the land. Maybe an attractive way to do things.

Ford: Can't address what the previous owners have done. We'll work with electric company but can't move the pole. Working on replacing the HVAC. Fire Dept. has said adequate room to get around. Not changing the use, fixing the drainage, putting in parking. Not adding more light, making traffic pattern better.
Mr. Clegg: No fencing around the dumpsters now. More noise/smell incursion on abutting property.
Mr. Gallo: The proposed is better than existing.
Chm. Strojny: What about a 6' fence along the back property line (east side) to shield the neighbor?
Ford: Dumpsters in a fenced area behind the building. Will provide a new plan.
Ms. Goldstein: Any room for screening/landscaping?
Ford: Not required. If put in will intrude with internal traffic.
Mr. Clegg: With a 6' fence around the dumpsters, you really have a big improvement.
Craig: Drainage – how affect everything else? Some wetland on the property.
Mr. Gallo: Superb from what's there now.
Ford: All water will stay on the property.

183 Shore Rd SPR Cont'd:

Mr. Gallo made a MOTION to approve subject to the following conditions:

- Changes to the plan: Lighting removed and building lighting to be shown
- Rear of building: trash receptacle and fenced with chain link and a gate
- Height of addition added to the plan
- 6' stockade fence across the back of the property not to interfere with utility easement

The MOTION was seconded by Mr. Clegg with all in favor.

Public Hearing: Local Comprehensive Plan

Steve Strojny, Chairman of the LCP: The Cape Cod Commission (CCC) was wonderful to work with. With their assistance and help, we went with their new regulations. We are on time and on budget. Been at it for 1.5 years. Had outreach meetings, Wes met with various committees, and departments. Coreen and Jen gave us tremendous support. The effect was outstanding. User friendly document, goals, issues, and action plan. Visionary document for the town moving forward. People will make reference to this document. We are extraordinarily gifted for Wes' experience!

Wes: Met with 38 Boards, committees and dept. heads. Asked what do you want to see? This came from the people that want to see this work. Policies, goals, action items are slightly chanted. Worked so not changed much. Actions changed a lot. Added/modified.
Coreen: the CCC certification process, they created a summary of minimal requirements. Targeted actions and goals. This will be an appendix to our plan. After Town Meeting this will go back to the CCC for certification. The LCP is on the website.
Mr. Doucette made a MOTION for a favorable recommendation as submitted including the summary of the CCC certification. The MOTION was seconded by Ms. Brown with all in favor.

Peter Meier: Thank you to everyone involved. All the Town Administrator finalists read the new LCP and thank you to the CCC and Town staff.
Mr. Clegg: Thank you personally, developed a great working relationship with the CCC because of positive work.

Mr. Doucette made a MOTION to adjourn. The MOTION was seconded by Ms. Azarovitz with all in favor.
With no further business before the Board, the meeting was adjourned at 9:35pm.

Respectfully submitted,
Ann Gutterson