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**PLANNING BOARD  
MEETING MINUTES:**

**Amended**

**SEPTEMBER 23, 2021**

**PRESENT:** Daniel Doucette, Sandra Goldstein, Elmer Clegg, John Carrol, Elizabeth Brown  
Louis Gallo, Jeanne Azarovitz, David O'Connor

**STAFF:** Coreen Moore, Jennifer Copeland

**ALSO PRESENT:** Zachary Basinski, Daniel Chauvin, Coleen Keliher, Gregory Leach, Jack  
Cauley, Jennifer McGrail, Sam Haines, Tim Lydon, Tracy Sullivan, and other members  
of the public.

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

**#1 Accepting Planning Board Minutes from July 8<sup>th</sup> and July 22, 2021**

No comments from the board members.

Motion to accept July 8<sup>th</sup> minutes made by Mr. O'Connor, Seconded by Ms. Brown

Roll Call vote to Accept minutes: Yes by all board members.

Motion to accept July 22<sup>th</sup> minutes made by Ms. Brown, Seconded by Ms. Goldstein

Roll Call vote to Accept minutes: Yes by all board members.

**#2 81p, Approval not Required Plans:**

**Old Plymouth Rd:** Ms. Copeland as staff reviewer. Kevin Flaherty representing this  
property begins explanation: reconfiguring portion of lot lines to create a bigger lot.

Ms. Copeland: Explains the changing of the lot lines and that they meet all the  
requirements.

Motion to accept by Mr. O'Connor seconded by Ms. Brown

Roll Call Vote: Yes by all Members.

**21 Foster Howard:** Corrinne- received request to withdraw. Kevin Flaherty explains  
that its withdrawn to have further discussion on the lot.

Motion made to accept the withdrawal without prejudice made by Ms. Brown seconded  
by Mr. Clegg.

Roll call vote: yes by all members.

**683 County Rd.:** Applicant not here. Ms. Copeland pulls up the plan for this lot.

Applicants previously received approval for a back lot subdivision on October 11<sup>th</sup>, 2018.

Owner had no intention of doing the backlot subdivision, presenting now and expansion  
of lot #2. Two family members will have the different parcels. There is enough land to  
do the back lot and increase lot 2. Backlot subdivision will expire October 11<sup>th</sup> 2021.

Ms. Moore- not typical 81 P, its actually an 81L, both structure on lot exist for zoning so  
they don't ned to meet frontage requirement. Will be signed off as 81 p for that  
exemption as they meet the requirements.

Mr. Clegg- Share Driveway? Ms. Copeland- will share same entrance. Just enlarging  
lot 2. Making it conforming so it has over 40 Thousand sq. ft.

Mr. Clegg- Is the driveway easement restricted to current ownership? Can it change in  
the future?



Ms. Copeland- Its and existing right of way but there isn't really an answer for that.

Mr. Doucette- In the past there has been a shared driveway and another lot enlarging itself as long as it pre-exists the zoning.

Clegg- Planning staff recommends approval? Staff- Yes.

Mr. O'Connor- Was it required to pave the driveway? Ms. Copeland- Not Sure.

Mr. O'Connor- is there a difference between a public way and a right of way?

Ms. Moore- difference is they are not maintaining frontage on that right of way, that's just a point of access and does not provide legal frontage. Because the structures existed before zoning, they have the right to expand that lot or add to it but does not provide legal frontage.

Mr. O'Connor- does vital access not play into this at all? Ms. Moore- Yes it does. There is case law that that right of way that exists needs to be maintained for emergency access. If it comes under vital access they would meet that, if they were adding a lot they would look at vital access.

Mr. O'Connor- Will the existing right of way be the access way or will the dirt driveway be the access way? Ms. Moore: they have two points of access.

Mr. O'Connor- do they have to use that right of way? Ms. Moore- didn't read the deed and cannot answer that.

Mr. Clegg- When was easement granted? As part of ANR or in Existence? Prior to back lot subdivision?

Ms. Copeland- Already in existence. Not noted on 2018 plan.

Mr. Clegg- worried about future of properties.

Ms. Moore- Easements typically follow the land.

Mr. Clegg- No evidence that the dirt driveway is covered by the easement.

Ms. Brown- after it's utilized for certain amount of years, the easement just happens.

Remembers in past similar situations, we can put something in the documents or deeds to make some kind of agreement with those easements.

Ms. Moore- Can't do that under 81p.

Motion to accept by Mr. O'Connor, seconded by Ms. Brown.

Roll Call vote- Yes by all.

### **#3 Lot Release**

**Forrest Park Dr. lots 3 and 2a:** Stu Clark representing Green Seal Environmental

A few weeks back due to some confusion there were mistakes with lot numbering and street numbering. Asking to release last two lots.

Mr. Doucette- Bond is posted. Opens discussion

Mr. Carroll- Confusion on number, 4a or 2a. Ms. Moore clarifies 2a.

Mr. Clegg- What are the street numbers?

Ms. Moore- number 4 Forest Park Dr. and 568 McCarther Blvd.

Mr. Clegg- applicant is requesting release of lot 3, but not requesting lot 6. Recalls that the releasing plan for lot 3 also included building parking or a roadway on lot 6. Why hasn't that been released?

Ms. Moore- Lot 6 was released on August 26. Lot 3 was not released due to mistakenly releasing 4a instead of number 4.

Mr. Doucette- bond has been posted.

Motion to approve lot release by Mr. Clegg, seconded by Ms. Brown

Roll call vote: yes by all board members.



**#4 Site Plan Review/Special Permit 13-2021, 303 Barlow's Landing Rd., Take Out Ice Cream: Coleen Keliher**

Boards asks for a general description of what is happening on premises.

Ms. Keliher- Strictly takeout ice cream, non-profit, fund local youth programming with the proceeds.

Ms. Azarovitz- describes boards feelings, parking is an issue, is it sufficient

Mr. Carroll- no parking issues and doesn't see a problem in that regard. Asks; will ice cream be consumed on premises or later? narrow sidewalk, maybe problem for kids, safety issue? Need to look at size of sidewalk.

Mr. Doucette- looking at a google earth view, there's no parking up front like the front of the post office in downtown buzzards bay.

Ms. Brown- asks the board if the parking lot split owned between town and the property owners?

Mr. Doucette- confirms its split.

Ms. Copeland- explains that it is a shared owned parking lot and brings up street view on computer

Mr. Clegg- sees major safety concerns

Ms. Azarovitz- confirms narrow sidewalk, wary of takeout window

Mr. Doucette- will Carroll work with applicant to make corrections? Same question to Ms. Keliher.

Both agree to work together to get the job done.

Mr. Clegg- asks Ms. Keliher- you are a non-profit? Officially granted by the IRS?

Ms. Keliher- yes, we have a 501c3 pending.

Mr. Clegg- what are your months of operation?

Ms. Keliher- year round is the plan.

Ms. Moore- suggestion that if window is removed, the board can approve now and the applicant will refile and revise and maybe consider having that takeout window.

Mr. O'Connor- we should schedule a meeting with applicant, Mr. Carroll, and the town engineer to help fix the safety issue with a wheel stop.

Mr. Carroll- agrees

Mr. Clegg- asks staff, is staff suggesting that there is adequate customer lineup space?

Ms. Copeland- 990 square foot interior, open with no seating, appears to be adequate.

Mr. Clegg- asks where people are going to order and how are they going to line up?

Ms. Keliher- there is a line in and a line out like a horseshoe for ordering ice cream.

Mr. Carroll- the board should hesitate to figure out business plan inside, and instead focus on the issues outside.

Ms. Goldstein- what is the purpose for the function area?

Ms. Keliher- no real purpose, just entrance and exit.

Ms. Goldstein- clearer drawing showing the plans would be a benefit before approving. Problem is number of customers and where they would wait considering the narrow sidewalk.

Mr. Doucette- occupancy is given by building inspector,

Mr. Clegg- has Mr. Patel approved the plans? Ms. Keliher- yes

Mr. Clegg- any restrictions or changes in the parking area, it affects other business nearby and owner Mr. Patel. He has to be privy to any requirements. Before any approval or anything, Mr. Patel should sign off.



Mr. Carroll- the board doesn't need to get into too much into traffic flow on the inside of the building, that is not our territory. Outside space 2 proposals- meet in front of post office tomorrow with applicant, Doucette assigns a date to bring this up again.

Ms. Kelliher- asks for time to be 9/24/21 at 1pm

Agreed by Mr. Carroll.

Discussion Continued to October 14<sup>th</sup>, the next meeting. Motion made by Mr. Carroll.

Seconded by Ms. Azarovitz.

Yes by all board members.

**#5 Site Plan Review Special Waiver 17-2021:** 7 and 9 St. Margaret's Street, Jack Cauley; civil engineer.

Mr. Cauley- Explains plans for the property: It is an existing building in downtown buzzards bay, 2 story. Developer wants to take 2 units that are businesses and convert them to residential. Foot print and exterior are the same except for cosmetics. No real substantial change. 8 parking spaces. No changes to the building. Change is consistent with this district, which is to provide housing.

Ms. Moore- Applicant is requesting a waiver from site plan review requirement 1235 of the zoning bylaw. Use is allowed under special permit. It is a gfl exemption (ground floor limitations) uses on the ground floor have to be commercial (mixed used), but if reviewing under the special permit process, the planning board can grant this exemption. They have to give reasoning. At this point recommendation is a waiver.

Mr. Cauley- very small project and it is within the power of the board to do this.

Mr. Doucette- recommendation is a special permit and it is allowed if done that way.

Mr. Clegg- logically looking at it as requesting special permit. We'd be better off approving through special permit process rather than a waiver.

Mr. Oconnor- doesn't think special permit in this case would be onerous

Mr. Cauley- confusing part- business currently on 2<sup>nd</sup> floor and residences is on 1<sup>st</sup> floor. Usually it's the other way around. Unsure of the history of this property.

Mr. Doucette- current plans 1<sup>st</sup> floor has office space an 2<sup>nd</sup> has living space.

Mr. Cauley- doesn't have the plans and need to clarify that.

Mr. Clegg- what the developer is trying to do makes sense, and will qualify for the permits and think it should be done this way. Should be filed under spec permit

No other comments

Mr. O'Connor- recommends applicant rescind this and re apply for special permit with ground floor

Motion to deny the waiver by Mr. O'Connor, Seconded by Mr. Clegg

Mr. Chauvin- is it 2 special permits?

Ms. Moore- no, 1 filing with 2 notations on spec permit. 1 application with 2 sections

Accepted by all members. Motion passes

**#6: Special Town Meeting Article Discussion:** Samuel Haines and Tim Lydon

Mr. Haines- Discussion on changing the definitions of uplands and lowlands under the zoning bylaws. Mr. Haines has some holdouts, some plots that appear not to be upland, fall under that definition during other times of the year. Coastal banks are not as water dependent and review may be necessary that there are no adverse conditions. Flood zone is buildable as long as following code. Just because they aren't allowed by right, there is

still a special permit process. Wants clarification for when special permit required and that language is broad.

Mr. Lydon- there is overlap with wetland jurisdictions. Private petition like this, wants to discuss more. Needs to be vetted further.

Mr. Doucette- agrees with both, shouldn't rush.

Mr. Basinski – we could do it for the Annual Town Meeting. Wants to see how many lots are affected by this definition.

Mr. Doucette- agrees laws should be consistent.

Mr. O'Connor- can you provide any towns that have done same thing in regards to proposal?

Mr. Basinski – doesn't have any information on other towns, really it's just about clarification on the definition of upland.

Ms. Goldstein- agrees with Mr. Lydon and Mr. Haines, too many lots with too many unintended consequences. Many conditions to consider.

Mr. Doucette- doing it right is important.

Mr. Clegg- should planning board be proponent of this or should it be other board/area of the town?

Mr. Haines- language is familiar, some overlap.

Mr. Clegg- our definition of upland needs to be in sync across departments.

Mr. Haines- some plots are site specific and there should be overlap.

Mr. Clegg- nothing wrong with being overly restrictive. Shouldn't sell out waterfront

Ms. Azarowitz- the Cape Cod Commission could have some overlays, possible consult with them.

Mr. Haines- overlays are good, but we still need to be more specific. That's what happens with special permits, you get more details. Exemptions effect the details.

Mr. Lydon- this is due to our definitions in the Zoning Bylaw. We don't always need to match exact language because different departments have different lenses.

Mr. Haines- still subject to conservation bylaws. They can be the experts.

Agreement to look over plans by Mr. Haines and Mr. Lydon.

Mr. Lydon- should have these conversations with the constituency.

No more comments. Will continue discussion at later meetings.

Motion to adjourn by Ms. Brown, seconded by Ms. Azarowitz. Roll call as follows.

Daniel Doucette: yes

John Carroll: yes

Jeanne Azarowitz: yes

Sandra Goldstein: yes

Louis Gallo: yes

David O'Connor: yes

Elmer Clegg: yes

Elizabeth Brown- yes