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Town of Barnstable Planning Board

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Board Members

Stephen Helman – Chair Raymond Lang – Vice Chair David Munsell – Clerk Paul R. Curley Mark R. Ferro Holly Brockman-Johnson Marry Barry
John Norman – Town Council Liaison

Staff Support

Elizabeth Jenkins, Regulatory Review/Design Planner
Anna Brigham, Principal Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable Planning Board Minutes June 27, 2016

Stephen Helman – Chairman	Present
Raymond Lang – Vice Chairman	Present
David Munsell – Clerk	Present
Paul R. Curley	Present
Mark Ferro	Absent
Holly Brockman-Johnson	Present
Marry Barry	Present

Also in attendance, Karen Herrand, Principal Assistant, Growth Management Dept.

Call to Order: Introduction of Board Members and Staff Members

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Chair Stephen Helman asks if there is any Public Comment:

Felicia Penn in attendance, states that the Planning Board has a July 11th, 2016 meeting/hearing where this issue will come before them. She makes reference to letter dated June 27, 2016, from her attorney, Edward Kirk, Exhibit A. She gives a review of Town Council Item No. 2016-166, Zoning Amendment (ZA).

She is asking the Planning Board to schedule their own meeting for this ZA, according to the law, reference to Exhibit A, and potential violation of M.G.L. c. 40A, section 5.

She refers to May 23rd letter that her Attorney, Edward Kirk also sent regarding this ZA, Exhibit B. The Planning Board had voted not to recommend this to Town Council and Town Council did not approve either. She is concerned that the Planning Board is being asked to participate in proceedings that are in violation of M.G.L. c. 40A.

The legal notice in the Barnstable Patriot was advertised on June 17, 2016, which was one day after the June 16th Town Council hearing. Also the Agenda was not posted timely.

The law does not allow Town Council to take final action without a public hearing or report from the Planning Board.

Reference to Exhibit A, letter dated June 27, 2016, pg. 3, 3rd paragraph.

Read into Record:

I wish to stress that under these particular circumstances, where the proposed legislation has been defeated as recently as March 2016, the Planning Board does not serve as a subcommittee of the Town Council or in an advisory capacity to the Town Council in these proceedings. The Town Council may not dictate to the Planning Board how it is to conduct its business in fulfillment of its statutory obligations.

A joint meeting of the Planning Board and the Town Council on July 21, 2016, whose objective will be the adoption of the measure, is a process which is not authorized by the statute. By joining in that process, the Planning Board will be compromising, if not relinquishing its independent statutory authority to conduct its own inquiry into whether this proposed amendment should be considered by the Town Council. In the absence of an independent inquiry by the Planning Board in accordance with the statute, any action taken by the Town Council will be of no legal effect.

Felicia Penn thanks the Planning Board for their time and allowing her to make public comment.

Subdivisions:

Lot Release Request: Request to Release Covenant on Lot 10 of Subdivision 362/658 (137 Maushop Avenue, Assessor's Map 278/046/001).

Stephen Helman reads into record, Exhibit C, Roger Parsons report;

"In response for a request to release lot #10 located within the above referenced subdivision I today visited the road and hereby confirm that the roadway paving, drainage and utilities have been installed and bounds have been set to demark the roadway right of way. As built plans have been submitted showing the construction."

Dan Ojala in attendance. He gives a description of the lot 10, requested to be released from covenant. This has been done for some time now. He refers to the plan, Exhibit D, copy of Subdivision plan.

Ray Lang asks about easements and if there are any not identified on this map? The turnaround, is it complete? Is Maushop a private way?

Dan Ojala replies that there are some easements that are not on this plan. The newer plans would reflect these easements. It is not a complete turnaround, it is a turning tee that has been approved. Maushop is a private way, but it can be used to get to this subdivision. Lot 12, will have to work with the Fire Dept. for this. Lot 12 shape it would depend on what/how house built.

David Munsell states nice development here, he supports the release of the lot.

Motion made by Paul Curley to release Lot 10 from covenant and retain Lots 11 and 12 under covenant as a security for the subdivision roadway completion, seconded by David Munsell, so voted unanimously.

Regulatory Agreement Public Hearing:

Mark Hyannis, LLC – 411 & 417 Barnstable Road and 42 Bearse Rd, Hyannis – Map 311 Parcels 033, 035-001 and 035-002. Proposal to demolish all three existing buildings and construct a two-story, 6,080 sq. ft. office/bank with a drive-through and an approximately 12,900 sq. ft. retail pharmacy with a drive-through and site improvements and re-divide the existing three lots into two lots. *Public Hearing Continued from May 9, May 23, and June 13, 2016.*

David Munsell comments that he has been against this proposal since the beginning, traffic issues here, but the Planning Board works for the Town and has to take the Town's interest in mind. We have not had any public comment in opposition, so if Town doesn't disapprove then he would like to approve this Regulatory Agreement proposal, he will support.

Holly Brockman Johnson would like to support this as well. She has some reservations about the North Street CVS being closed. She is a little reluctant because she would like the CVS on North Street to remain. She thanks the Applicant/Group.

Ray Lang interjects/directs to Roger Parsons, Town Engineer. He has drawn up a plan and presented this to Staff last week. Asks if he has seen the plan he submitted with changes that he would like to do on Barnstable Road?

Roger Parsons replies that he has spoke with JoAnne Buntich regarding the ideas on the plan, he has not seen the plan. Bearse Road changes, reserve or maintain an existing driveway from the rotary. He doesn't think this is a good idea. Main access to both sites would be from Barnstable Road. He thinks the plans that have been presented are acceptable to him. His opinion is that the new facility with the proposed curbing, signage and lines will make an easier recognition and guide to this site.

Ray Lang would like to state his opinion. The CVS tenancy will increase traffic. He is looking for ways to help this intersection site. Suggests bending road closer to property line and get an extra turn lane to go into the property line. Clarify on his plan changed the direction that would be against the rotary traffic.

Roger Parsons states that he agrees with some of what Ray Lang trying to point out, recognizes would be confusion of backed up traffic, would have an opportunity to go into CVS and people thinking they have a wider area, would not respect this and use as lane width which would cause confusion. The problem in his opinion is that least is best, not more is best.

Holly Brockman Johnson states that they had this discussion/presented it early on along these lines. She thinks year round people would know that this exists.

Stephen Helman asks/directs to the Board about the feeling of wanting to approve this.

Eliza Cox, Esq. in attendance. She states the her client has had many conversations with the people at CVS and they are not intending on closing the North Street store, this is a busy store that will remain. She hands out the pages of the Draft Regulatory Agreement and the changes that they have for review, Exhibit E.

Holly Brockman Johnson clarifies that these are minor changes/dates.

Town Attorney Ruth Weil replies, yes, she hasn't found any problems with the suggested changes/tweaks.

Motion made by Paul Curley to close the Public Hearing, seconded by Ray Lang, so voted unanimously.

Motion made by Paul Curley to approve recommendation to Town Council of this Regulatory Agreement as presented and as edited, June 10, 2016, draft as presented tonight, seconded by David Munsell, so voted unanimously.

Correspondence: *(Any Member wishing a copy please contact the office)*
Chapter 91 Application – 803 South Main Street, Centerville -540 Main LLC –
construct/maintain boardwalk, pier, ramp and float, Centerville River

Approval of Minutes: November 23, 2015 and January 11, 2016, and April 11, 2016

Motion entertained by Chair Stephen Helman to approve the minutes of November 23, 2015, as presented, moved by Holly Brockman Johnson, seconded by Paul Curley, David Munsell abstains as he was not in attendance. The minutes are approved.

Motion entertained by Chair Stephen Helman to approve the minutes of January 11, 2016, moved by Ray Lang. David Munsell abstains as he was not in attendance. The minutes are approved.

Motion entertained by Chair Stephen Helman to approve the minutes of April 11, 2016, moved by Paul Curley, seconded by Holly Brockman-Johnson, so voted unanimously.

Board Discussion: regarding correspondence and public comment made tonight by Felicia Penn.

Chair Stephen Helman clarifies that this is a legal issue/matter and the Town Attorney will have to address this. The Planning Board cannot legally answer this. He directs to the Town Attorney Ruth Weil.

Town Attorney Ruth Weil states that there is some confusion. There is no gate keeping function for the Planning Board. This will be advertised as a Joint Public Hearing, 40A Section 5. The changes that were made were in direct response to some of the concerns made. It is totally permissible for the Planning Board to proceed with a joint hearing. The changes are: previous proposal could have structured parking, this is now prohibited, mixed use lots, the other change make clear that parking lot owners has/is limited. This is trying to regulate what is there. The bottom line is: Her analysis that this is not a reconsideration and is a properly scheduled as a joint hearing.

Stephen Helman confirms that this came to the Planning Board meeting, all had agreed that we are committed.

David Munsell asks about confirming on the record if there were any discussions regarding the HPOD Zoning Amendment prior to this scheduled Joint Public Hearing.

Ray Lang didn't realize that this would be for zoning of parking lots. He doesn't like Joint Hearings and he would prefer that the Planning Board have it's own hearings and then send recommendation to Town Council. He thought that it was already confirmed. He has no idea what the changes are and would like to review.

Ruth Weil comments that there have been more Joint hearings then separate hearings. It has worked well in the past for a number of projects. The Hearing doesn't have to close on July 21 if people have more questions. This has all been done in good faith.

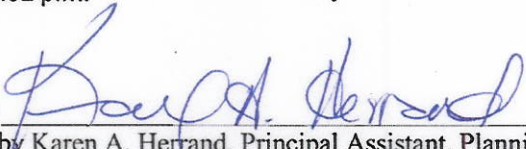
David Munsell states that the Planning Board should know ahead of time, he would have liked to go the first reading. He was a little disappointed at the last Joint Public Hearing with Town Council. He didn't get to hear the Public Comment that Town Council had, while they were voting.

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: Regularly Scheduled Meetings: July 11th @ 7:00 PM.

Motion entertained by Chair Stephen Helman to adjourn, moved by Holly Brockman-Johnson, seconded by Mary Barry, so voted unanimously to adjourn.

Meeting adjourned at 8:02 p.m.

Respectfully Submitted 
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

June 26, 2017

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

List of Exhibit Documents

Exhibit A – Letter dated June 27, 2016, from Attorney Edward Kirk – HPOD ZA No. 2016-166

Exhibit B – Letter dated May 23, 2016, from Attorney Edward Kirk – HPOD ZA No. 2016-166

Exhibit C – Memorandum dated June 21, 2016, from Roger Parsons re Sub. No. 658/362

Exhibit D – Sub. Plan No. 658/362 – approved Oct. 1987 - Covenant Release Sub.

Exhibit E – Draft Reg. Agrmnt No. 2016-01

APPROVED