

**COHASSET PLANNING BOARD MINUTES**

**DATE:** MONDAY, OCTOBER 6, 2008  
**TIME:** 7:00 P.M.  
**PLACE:** COHASSET TOWN HALL – LOWER LEVEL MEETING ROOM  
41 HIGHLAND AVENUE, COHASSET, MA 02025

**Board Members Present:** Alfred S. Moore, Jr. - Chairman  
Stuart W. Ivimey, Vice Chair  
Charles A. Samuelson, Clerk  
Clark H. Brewer

**Board Members Absent:** Mike R. Westcott

**Recording Secretary Present:** Jo-Ann M. Pilczak

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**MEETING CALLED TO ORDER AT: 7:00 P.M.**

**7:00 P.M. ADMINISTRATION (some administration covered early to fill this time slot)**

• **CAMPEDELLI APPEAL UPDATE** – Member Ivimey conveyed his discussion with Town Counsel Saillant. The judge in this case gives his opinion orally from the bench and then asks the parties to draft an order of finding of facts based upon his opinion, which, Ivimey opined is an odd approach. To provide background for newer members Brewer and Samuelson, Ivimey explained that an ANR was before the board and, an unrelated party (Mrs. Campedelli) stated that, by an old agreement, she had an option to purchase the property because the applicants were subdividing the property. The Board endorsed the ANR. In Campedelli's appeal of the endorsed ANR, the court found that an ANR was a subdivision of land as envisioned by the parties (not, according to the Planning Board's definition of Subdivision under the Subdivision Control Law). The court did not find that the Planning Board did anything wrong in that the Board ruled on what was before them, but, that the Aherns, applicants and owners of the property, wrongfully failed to honor Mrs. Campedelli's option to purchase the land once there was a plan to subdivide the land. The judge stated that the Ahern's should have immediately transferred the land to Mrs. Campedelli and that the Form A should not have been filed. The judge stated that the Aherns engaged in wrongful conduct by not transferring the land to Mrs. Campedelli and then ordered the transfer of the land to Mrs. Campedelli. Mrs. Campedelli is the equitable owner of the land as opposed to the titled owner of the land. This raised questions as to whether the Planning Board is supposed to resolve title disputes – the court did not get into that issue – the court just felt it was doing justice in this case. Town Counsel advised that this case should not have a precedential value and the Board should continue to treat future ANR's exactly as they handle other ANR's. Planning Board does not have to do anything as court's decision will invalidate the endorsed ANR.

**7:29 P.M. 215 CJC HWY, WIND TURBINE SITE PLAN REVIEW AND SPECIAL PERMIT CONTINUED PUBLIC HEARING, APPL: JAMES SWEENEY, CCI ENERGY; OWNER: PAUL BARRY - VOTE TO POSTPONE AND CONTINUE TO 10/27/08 AT REQUEST OF APPLICANT**

Public hearing was reopened.

**MOTION:** by Member Ivimey to comply with the applicants request to continue this public hearing to October 27, 2008.

**SECOND:** Member Samuelson

**VOTE:** 3 – 0 MOTION CARRIES (Member Brewer had not yet arrived)

**7:30 P.M. 1 JAMES LANE SITE PLAN REVIEW CONTINUED PUBLIC HEARING, APP: DR. ROGER POMPEO, OWNER: GEORGE ROUKOUNAKIS**

Brendan Sullivan, Cavanaro Consulting; Architect Don Ritz, Applicant Roger Pompeo and Owner George Roukounakis in attendance. Submitted new set of revised plans to address recommendations from last meeting. Created a landscape area and changed parking from 60° angle to perpendicular to the building on James lane. This also allowed the parking to be shifted to the east creating some cement space on the southwest corner to allow grading the sidewalk to a <5% grade so it is ADA compliant.

Located the opposite curb line of the town parking lot on plans. Laid out the parking as it should be – 20’ space, 24’ aisles, two 20’ spaces in the middle and bringing that layout over to the edge of the proposed sidewalk line which matched up with the curb line at the side of the property which makes the sidewalk one continuous line from the sidewalk adjacent to the building. Created some steps up to doorway at corner of building. Rounded the island at SW corner to make it more navigable - about a 10-15’ radius. Puts the sidewalk at grade with parking spaces so there is no curbing, but there are curb stops. John Modzelewski thinks this works very well. Modzelewski had not received revised plans prior to meeting so he could not review thoroughly before meeting, but had a few comments after quick look at plans:

- James Lane should be labeled public or private on plans
- Radius should be on the curve on SW corner
- A/C pads should be shown on plans
- Should be some acknowledgment about grading on abutting Roukounakis property (letter from owner)
- Curb materials should match

Sidewalk will be concrete. Board would rather see all brick walkway to match the overall sidewalk plan they are trying to achieve. Ritz noted that there is some brick and brick highlight – they would consider a brick edge to the concrete sidewalk. Ritz also noted that brick can be dangerous as it heaves and becomes uneven while concrete will move less. Pompeo thinks combination of concrete and brick will add style but will still be a safe, firm surface for his patients. Captain Trask suggested skateboard resistant surface. Member Brewer suggested that the fence on the east side of property comes close to James Lane and should be pulled back 10-15’ to give better site line for people backing out onto James Lane. Would also like to rule out asphalt on sidewalk and stay with brick, pressed concrete or combination of the two. Brewer also suggested widening the 5’ sidewalk by taking some space from landscape area – other members of Board did not agree and would rather see the greenspace. Ivimey likes the 5’ walkway and wider planting area – wants to encourage greenspace. Pompeo noted planting areas will have irrigation.

Member Samuelson would like to see consistency of landscaping and planting across all Parkway properties. Capt. Trask noted that the PFD (after the January, 2007 fire at 20-22 Depot Court) would like to see the building – and the entire village – sprinklered. At the time of construction, sprinkler installation costs about \$1.50-\$3.00/SF. Ritz noted that, at present, there is no sprinkler overlay in the village and that the building codes do not require automatic sprinklers for a building this size and that it is not fair to use this filing as an arbitrary case to set an example. Ritz noted that this building is safer than a house – no cooking, gasoline, hazardous material, fireplace, or smoking and, it is far from other structures and, that accidental discharge of the sprinklers will destroy medical records. However, Ritz offered that they could incorporate non-combustibles into the building materials: cement fiber siding, fire code gypsum wallboard, and, fire resistant or metal non-combustible roofing. He also stated that they are considering partial steps toward a sprinkler system. Chief Silvia pointed out that his concern is not the size of the building to be built, but what the village and this building will look like in 10 years when the village is totally built out. Further, Silvia noted that the incidence of accidental discharge of a properly installed system is 1 in 16 million and pointed out that the Depot Court fire started due to a malfunction in the heating. Modzelewski pointed out that they would have to look at the size of the water main entering the building if they were going to add sprinklers.

Don Ritz: dormers have been added on both sides; Roman dates eliminated; railing between columns added to porch; landscaping walls on north side of building to be a max. of 3’; and, showed pictures of the exterior materials.

John Modzelewski noted that the sidewalk is on private property which the public will be using for purposes other than going to Pompeo’s building and asked if there is anything the Planning Board needs to protect themselves, obtain a release of liability etc. Ivimey noted Pompeo is allowing the public to use his sidewalk and that a person does not use property adversely if the owner has given permission to use it. Moore stated that it would be up to the owner of the property to discuss this with his private counsel.

**Condition: Ivimey wants it conditioned that before building can begin, the applicant must produce documents demonstrating that they have the right to build (the parking) on someone else’s land.**

**MOTION: by Member Ivimey to close the public hearing**

**SECOND: Member Brewer**

**VOTE: 4 – 0 MOTION CARRIES**

**Condition: Moore noted that the location will mean a lot of activity on James Lane and the Parkway during construction and wants to make sure the approval has a provision that the public way and parking lot is not blocked for extended periods of time during deliveries etc. May require police detail at certain times and identification of a staging area.**

**Condition: Capt. Trask wanted fireproof construction materials required as a condition if the applicant decides not to sprinker building.**

Brewer asked if it was possible to continue the parking space striping on the sidewalk to where the sidewalk meets the garage to reserve that as a continuation of the sidewalk to keep people from parking in that space. It was suggested that the Town could stripe it.

**MOTION: by Member Ivimey to approve this site plan application subject to the conditions discussed**

**SECOND: Member Samuelson**

**VOTE: 4 – 0 MOTION CARRIES**

21 day deadline for filing decision is Sunday, Oct. 26 so it must be filed on Friday, Oct. 24. Board does not meet again until Oct. 27. Administrator to contact Attorney Humphreys (applicant's attorney) for written request to extend deadline for 3 weeks to November 14, 2008. Draft decision to be reviewed at 6:30 PM at Oct. 27<sup>th</sup> meeting.

### **8:30 P.M. VILLAGE BUSINESS DISTRICT DESIGN GUIDELINES, CONTINUED PUBLIC HEARING**

Board decided to hold on a vote at the moment. Once Design Review Board (DRB) is officially appointed, they would like the DRB to review the guidelines and use the guidelines for one filing as a "dry run" to see how they work, then vote. Bill Good listed individuals who are interested in being on the DRB but do not necessarily fit the criteria of backgrounds outlined in the General Bylaws. Good does not want to turn interested citizens away from participating. Member Moore to talk with Bill Griffin about member selection.

### **8:50 P.M. ADMINISTRATION**

#### **• INCLUSIONARY ZONING BYLAW SUBMITTED FOR WARRANT (not on agenda)**

This article was before the Planning Board for public hearings for the Spring, 2008 ATM. At that time, the Planning Board was of the opinion that this article was not ready to be presented on the floor of Town Meeting for several reasons including, among other things, the need to rework the buyout formula and the need to clarify the criteria for density bonuses. Town Counsel concurred that, particularly that clearer density bonus criteria would make the case stronger. At the suggestion of the Planning Board, the Housing Partnership withdrew this article from the Spring, 2008 Town Meeting Warrant with the intention of reworking it for submission for the Fall, 2008 STM. After the withdrawal, a reworked draft was submitted to the Planning Board. The Planning Board has not heard from the Housing Partnership regarding this article and was surprised to find that it was submitted for the Fall STM without any meeting with the Planning Board to review and discuss changes, points to be clarified etc. For an article of this scope, the Planning Board would expect such discussion and review to require several meetings prior to public hearings. Meetings scheduled prior to Town Meeting, are for October 27 and November 10. October 27 agenda is full as, among other topics, the Wind Turbine public hearing has already been continued to that evening as has the Reconciliation Zoning Bylaw public hearing. This leaves only the November 7 meeting. The Planning Board members do not think that an article of this size, complexity and importance can reasonably be discussed at only one meeting prior to Town Meeting. Member Brewer (who is also on the Housing Partnership Committee) agreed that the article was submitted somewhat late. He did not think withdrawal of the article would be a problem.

**MOTION: by Member Ivimey to alert the Town Manager to the fact that the Planning Board will not be able to advertise and hold adequate public hearings on this article prior to the November 17, 2008 Special Town Meeting.**

**SECOND: Member Brewer**

**VOTE: 4 – 0 MOTION CARRIES**

Planning Board Administrator to send memo to Town Manager

#### **• VOTE TO ACCEPT AMENDED 08/11/08 MINUTES**

**MOTION: by Member Brewer**

**SECOND: Member Samuelson**

**VOTE: 3 – 0 MOTION CARRIES (Member Ivimey recused)**

#### **• VOTE TO ACCEPT 09/22/08 MINUTES**

**MOTION: by Member Brewer**

**SECOND: Member Samuelson**

**VOTE: 3 – 0 MOTION CARRIES (Member Ivimey recused)**

- **STREET LIST UPDATE** – Planning Board Administrator explained the outcome of meetings regarding an updated street list. Outcome was two lists – one that the group feels is an accurate list of “active” streets in Cohasset while the other is a list of “inactive or historical” streets that no longer exist, have been renamed, or never formally existed as, in some cases, they were driveways named after the property owner that became known as a street name. There are questions about a few streets that need to be addressed (eg - are they public or private?). Have to determine next steps: should list of inactive streets go before Town Meeting to be formally terminated as street names and/or the list maintained in a street listing file just for historical purposes; and, is it time to move forward and have a new street map done that is used by Chamber of Commerce, phone directory etc. To be addressed at future meeting.
- **VILLAGE SIDEWALK UPDATE (not on agenda)** Member Brewer had draft plan of the sidewalk plan for the Village Business District area. Also mentioned that MAPC is holding a workshop next week on “Suburban Mobility Programs”. Brewer mapped out a 7 mile route around town that takes 30 minutes to complete – So. Main, Harbor area, Library, Shaw’s, Stop & Shop, Train Station. State has \$600,000 that can be used to match funds for this type of transportation and for free bike racks – funding goes to whoever is organized to get application in first.
- **ZONING MAP** – Zoning map is 7 years old and out of date – eg. Village Business District is not on the map and new subdivisions lots since last update are not on the map. Planning Board Administrator to try to get information about past update from Tom Gruber, former Town Planner Harrington and perhaps referral to company that can update from Concord Square Development.
- **SUBDIVISION CONTROL LAW UPDATE** – Planning Board Administrator asked Board to keep this update in mind if filings decrease due to economy and time is available to update Subdivision Control Rules & regs.
- **CONTINUED DISCUSSION – SPRINKLERS IN VILLAGE BUSINESS DISTRICT** – Captain Trask asked for direction from the Board regarding sprinklers in the Village Business District. Trask and Capt. Silvia were of the impression that they should have sprinklers required as conditions of approval via the ZBA and the Planning Board. It is now clear that in some cases sprinklers can be required in the Village and in other cases – for example, Pompeo’s building which is not a special permit and is < the number of SF that require sprinklers by the building codes – sprinklers cannot be required. Trask and the Board wondered how they can go about establishing an sprinkler overlay for the Village Business District. Moore made commitment that the Planning Board will work towards drafting a bylaw for a the Spring ATM. Trask will gather samples of sprinkler overlays written by other towns. Ivimey thought we had dialogue about 18 months ago relative to the fact that towns cannot have requirements that are more restrictive than State codes. Goal is still to have all Village Business District buildings sprinklered within “X” number of years at time of renovation or new construction. Also discussion about gaining cooperation from other departments – such as the Water Dept. to not put such excessive costs on hook-ups and annual fees – this works against the goal of sprinklering the Village. Planning Board Administrator to check with Town Counsel to see if we can do something relative to special permits that would require sprinklers in the Village and, to contact Water Commissioner Glenn Pratt to invite him to the November 10 meeting to discuss this.
- **OLD FILINGS** – not addressed
- **CAMPEDELLI APPEAL UPDATE** - See above 7:00 agenda item

**MOTION: by Member Samuelson to adjourn at 9:40 P.M.**

**SECOND: Member Brewer**

**VOTE: 4 – 0 MOTION CARRIES**

**NEXT MEETING: MONDAY, OCTOBER 27, 2008 AT 6:30 P.M.**

**MINUTES APPROVED: Stuart W. Ivimey (for Charles A. Samuelson, Clerk)**

**DATE: October 27, 2008**