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TOWN OF HAMPDEN MASSACHUSETTS



Planning Board
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John Matthews, Chair
Joseph Dolben
Judge Robert Howarth
Phillip Schneider
Mark Casey
Associate Member: Richard R. Green

MINUTES OF THE HAMPDEN PLANNING BOARD **Wednesday, June 25, 2014** **Regular Meeting**

Approved 8/13/14

In Attendance: John Matthews
Charlie Dolben
Judge Robert Howarth
Phillip Schneider
Mark Casey

Mr. Matthews indicated to the audience that the meeting is being recorded by the HCC Buffer Committee and also by the Planning Board.

General:

Call to Order – John Matthews, Chair, called the meeting to order at 7:27 PM.

Mail –

Bills – Payroll signed.

Approval of Minutes – Mr. Casey made a motion to approve the May 28, 2014 Regular Board Meeting Minutes. Judge Howarth seconded the motion. All in favor so approved (5-0). Mr. Dolben made a motion to approve the Minutes to the Public Hearing, Case 2014-F, Minnechaug Solar, 229 Somers Road; and for Case 2014-G, Dolben, 51 Burleigh Road (Mr. Dolben recused himself from the approval of the minutes on this case).

1) 28 Somers Road – Hampden Veterinary Clinic, Penny Peck, Discussion

Penny Peck presented her plans to move her business, Hampden Veterinary Clinic, from the Hampden Mini Mall to the Galvin Real Estate Building located at 28 Somers Road. Ms. Peck plans to purchase the building and expand her business. Her plans are to demolish the existing building and rebuild basically in the same footprint. She would also like to add an addition to the new building creating an “L” shape structure of approximately 4,000 square feet. There will be a full basement under the building addition for storage. They do not plan to board pets, grooming or day care. There will be no outside runs and the hospital is being designated to maximize soundproofing. There will be a fence around the property that borders residential yards. Ms. Peck indicated that they do not hospitalize sick dogs overnight, however, they do have 3-6 cats staying overnight in the facility for their treatment. Mr. Matthews referenced this would fall under 3.22, Veterinary Hospital, in the Table of Uses.

Ms. Peck indicated that she is working with The Barnyard for the new building. The new building will be handicap accessible and will look similar to the current building. There will be parking spaces in the rear of the building, and there is currently parking for about 6 vehicles in the front. The building will have 24 hour security and fire monitoring. Concerning delivery trucks, pet cremation trucks picks up and drops off on Mondays; UPS drops off medical supplies on Monday, Tuesday, and Wednesday, possible Fridays. Hazardous waste is picked up monthly. Ms. Peck would like to put the sign where it exists now according to the bylaws possible with a light. Ms. Peck indicated has all her state and federal licenses. She indicated she helps the town with stray pets, the rabies clinic, voucher programs, etc.

Ms. Peck presented the building plans to the board. They had a perc test done and there is enough room for septic and leach field; however, they need to put in a new well. Mr. Pete Peck, Penny's brother who is also a contractor, explained that an inspection was done on the existing building, and found it to be structurally not sound. That is why they decided to rebuild. The foundation is falling apart, insulation falling down, etc. They were hoping to save the building; however, it is not financially worth it. He has spoken to the Barnyard Engineers concerning this.

Lance Trevallion, Building Inspector, looked at the existing building. He indicated the building is in tough shape. If Ms. Peck has the funds, he would suggest rebuilding. Concerning zoning, the building is about 16 feet at its closest point to the property line on each side and is zoned Business, however, it abuts residential zone; so the setback is 50 feet based on the states zoning act and the town zoning. Therefore, if Penny wants to expand and not get any closer to the property line that already exists, she can go to the ZBA to request a Section 6 finding. Mr. Trevallion explained, she can go back and not get any closer than already exists. Ms. Peck indicated that is her plan.

John Matthews also mentioned to Penny Peck that all parking is to be in rear. She may have to go to the ZBA concerning this issue which is under Section 7.545 of the Bylaws. John Matthews asked about the three existing businesses that are currently on site. Ms. Peck indicated they will no longer exist at her location. He also pointed out that overflow parking may impact her business, and that would be something she would have to handle as the owner.

The Planning Board referred Ms. Peck to the Zoning Board of Appeals. The Planning Board will send a letter to the Zoning Board of Appeals stating the Planning Board supports the proposal subject to their approval of those sections of the bylaws as previously indicated.

2. 32 Wehr Road – Cynthia Bailey-Discussion-Possible ANR – Cynthia Bailey lives at 32 Wehr Road. Her property line is very close to her neighbor in the rear. She indicated she would like to sell a "wedge" of property to the owner of the property behind her. Mr. Matthews asked if her lot is conforming to the bylaws for her district. Mr. Dolben indicated it is pre-existing, non-conforming lot, and she would be increasing the non-conformity. Therefore, she would have to go to the Zoning Board of Appeals. Judge Howarth indicated she should speak to a real estate attorney.

3. Lance Trevallion – Discussion on LED Signs

Mr. Trevallion discussed with the board his receipt of a Sign Permit Application from F.L. Roberts for an LED Sign to electronically change the price of the gas from inside the store. According to the bylaws, any illumination provided for signs shall be white light only and shall be indirect illumination only. Mr. Trevallion indicated that the bylaws are not very clear concerning lights—does it mean internally lit or externally lit. He isn't clear on what is meant by "indirect lighting". Mr. Trevallion stated LED signs can be very bright with typically red letters. Mr. Schneider stated that he has some experience with LED signs, and that the residents on Meadowbrook could be affected. Per John Matthews, he feels LED are not indirect illumination and, therefore, not allowed. Mr. Trevallion asked the board what is "indirect." Mr. Dolben stated he feels it would be a sign with clear letters on a dark background with a fluorescent light in the box. Mr. Casey stated that indirect means the light illuminates the sign and not out to the street. He believes that is what that bylaw refers to concerning indirect illumination. Mr. Trevallion stated he agrees with the board and will deny this permit. He stated the applicant can appeal through the ZBA.

Other Business:

Summer Board Schedule - The summer schedule for the Planning Board was reviewed. Due to vacation conflicts, the board voted their next scheduled meeting to be August 13, 2014.

Legal Notices to Abutters - The question was raised concerning legal notices for public hearings. Mr. Matthews asked the Planning Assistant to check with the Attorney General's Office concerning the process for alerting abutter's and what the time constraints are for the mailing of notices. According to the two cases provided from the MGL, Chapter 40A that addresses this issue, the 14 day time period for notice by publication in the newspaper does not apply to the notice to parties in interest by mail. In the other case, receiving notice by mail 4 days before a public hearing did not give interested parties an opportunity to prepare their position and was not reasonable. Therefore, it was agreed that receipt of legal notice no less than five days would be reasonable under extenuating circumstances.

Changes to Zoning Bylaws – Mr. Matthews updated the board concerning proposed changes to the bylaws. There have been issues raised in which the bylaws did not cover specific uses. One example is Mr. Cimmino and the Greenhouse being used as a banquet facility. Town Counsel indicates the bylaws do not cover this use. It was suggested that we amend the bylaw and add "Banquet Facility" in the Table of Uses as the Greenhouse is not operating as a restaurant due to hours, preparation of food, etc. This is one change to the bylaws to be proposed. Mr. Matthews indicated the bylaws state, "Any use not listed shall be construed to be prohibited." Another issue is the Veterinary Clinic versus Veterinary Hospital. Also, Mr. Matthews indicated he would like to include the zoning history to the Bylaws. We are composing a list of items to be addressed at the Fall Town Meeting.

Ethics Issue

Mr. Casey has been in contact with the Ethics Commission about participation in board discussions with Hampden Country Club as he is an abutter to an abutter. He provided their response. He can attend as a resident and sit in the audience only. Mr. Schneider provided a response from the General Counsel for the State Ethics Commission indicating that he believes the best course of action would be to abstain from matters in which the Country Club is involved. A copy of this letter was provided to the Board.

Adjournment – Having no further business, the meeting was adjourned at 8:25 PM. The Planning Board's next scheduled meeting is Wednesday, August 13, 2014.

The HCC Buffer Committee and Planning Board turned off the recorders upon adjournment.