

Meeting Minutes

Planning Board

Wednesday, April 28, 2021

Virtual Meeting via Zoom

APPROVED

Members Present: Peter Paicos, Chair; Larry Murphy; Leslie Matthews; Woody Knight; George Morse; Mary Stohn (Associate Member)
Staff Present: Martha Taylor, Planning Director; Emily Noble, Planning Board Administrator

Peter Paicos opened the Planning Board meeting at 7:00 p.m. and verified that all members and persons expected to be present were in attendance.

He then announced that this April 28, 2021 Open Meeting of the Newbury Planning Board was being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, suspending certain provisions of the Open Meeting Law due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus." He stated that the Planning Board was convening by video conference via Zoom, as posted on the Planning Board's agenda, and provided information on how people could view and join the Zoom meeting and participate when public comment was invited. He concluded by stating that each vote taken in the meeting would be conducted by roll call vote.

Following the opening remarks, P. Paicos turned to the agenda.

A. Public Hearing – Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager (continued from April 21, 2021)

P. Paicos opened the continued public hearing. Steve Sawyer, DCI, said that the only new information was a letter that the Board of Health sent to M. Taylor regarding the Porta Potty use. Vince Godin, Manager, The Cottages Commercial, LLC, confirmed that was the only item and that the Health Inspector had sent over the approval to M. Taylor.

P. Paicos asked if the Board members had any questions before they review the Decision.

L. Matthews asked if the Health Inspector came to physically look at the site or just reviewed the plans.

Beau Sturm said that he spoke with the Health Inspector a couple of weeks ago and then they had a phone call walking through the plans and answering any questions. Initially she had sent an approval to Peter Binette, the Building Inspector, and then he asked her to send one to the Planning Board as well.

There were no other questions so P. Paicos asked M. Taylor to share the decision on her screen. He said all the Board members had had an opportunity to review the decision but he would like to go through it.

M. Taylor said she had a couple of notes on Page 2. There was some back and forth on the number of patrons – the original narrative said 164, but it was given at a Select Board

meeting as 162, but V. Godin has confirmed that it is 163. That is consistent with the drawings.

She said she added some language to address the questions that came up about the traffic flow and was suggesting that it might be beneficial to note that the direction of traffic was changed from the original proposal and the flow through the site was reversed.

L. Matthews asked if that was consistent with the idea that most patrons would be exiting in that direction.

M. Taylor said this was consistent with the thought that some number of patrons would be coming from off island, so rather than trying to cross traffic on Plum Island Boulevard, they can turn left at the intersection, enter the site off of Old Point Road, and then turn right when leaving and go directly off island.

P. Paicos asked if the Board Members were comfortable with that. All said yes.

P. Paicos asked, with regard to the color temperature of the lights, for confirmation that the exterior lights will be LED lighting with a color temperature of 3000K. M. Taylor said she believes the fixtures are LED and V. Godin has agreed to the limitation of 3000K. V. Godin said he is comfortable with that and the plan is to have all LED lighting which is dark sky compliant.

M. Taylor said the other suggested change on this page was that she crossed out last call at 10:30 p.m. because that really is within the purview of the Select Board in issuing a liquor license, so this addresses only the hours of operation.

M. Taylor then asked if there should be more information on operations such as number of employees, security, music, etc. She said they have been told the number of employees is five. Some of the other things may be in the purview of the Select Board, such as music.

L. Murphy said to M. Taylor's point that they are not the only authority here. The Select Board will be issuing a few licenses. He said he doesn't know if they need to get into those things in detail. In any case, any concerns on these types of things would be better addressed in the Conditions section.

G. Morse said that he thinks the issue of security is a private matter of the owner operator.

W. Knight agreed with what had been said.

L. Matthews asked for some clarification on what the number of employees working is expected to be per shift and where they would be parking.

V. Godin said if they had any issues with the lot being full, they do have the store across the street that has about 30-35 spaces available if they are needed.

L. Matthews asked about the safety practices for employees leaving at night. V. Godin said the path is well lit. B. Sturm said it is a company policy that no employees leave alone and that they always know where their employees are.

M. Taylor noted a few minor corrections on page four.

The Board went through page five, there were no comments.

L. Murphy then read the Conditions of Approval. He returned to Condition L. and asked what the Applicant's thoughts were on entertainment.

V. Godin said they do not plan on having any live music at night and will have limited live music during the day. Background music will be limited only to the seating areas.

L. Murphy said it might be prudent to have a Condition on this, something to the effect that entertainment is prohibited except pursuant to an entertainment license issued by the Select Board.

P. Paicos asked if he would like to propose that now. L. Murphy said he would. M. Taylor added it in with the other conditions. She wrote, "Entertainment is only permitted pursuant to an Entertainment License issued by the Select Board."

L. Matthews said recorded music would be considered white noise. L. Murphy said he understands that, his biggest concern would be the speakers outside. He said since this Board is not equipped to put any noise regulations in place, this would be something better addressed by the Select Board in terms of an Entertainment License.

V. Godin asked if that would include inside background music.

L. Murphy said he didn't know how the Select Board would treat that. He said it is sort of a gray area, but he is not concerned with the inside music.

P. Paicos asked all the members of the Board if they had any comments or questions. There were none.

M. Taylor asked if there should be any sort of condition if the ownership or management were to change, some language that if there are changes it might be subject to Board review and approval.

G. Morse said whatever is contained in the Decision would remain in place.

L. Murphy said that any subsequent owner would take possession subject to the Decision, but he has no objection to that being stated.

M. Taylor added that this might be a requirement of the liquor license.

V. Godin confirmed and said when they bought the liquor store across the street, they had to go before the Select Board for approval for that change.

L. Matthews, W. Knight, and M. Stohn said they were comfortable with that.

S. Sawyer asked about Condition F. regarding Construction Inspections by an outside Agent. He asked if that was new, he does not remember that from previous projects.

M. Taylor said that is pretty typical and would probably be mostly for the Stormwater.

P. Paicos asked if any additional written comments or questions had been received.

M. Taylor said, as noted earlier, they had received an email from Deb Rogers, stating that she had reviewed the entire plan and does not see any public health issues, and that the plan is approved as submitted.

M. Taylor said several emails had been received from Steve Mangion, dated April 25th, 26th, and today the 28th.

P. Paicos then opened the hearing up to public comment.

Ryan O'Hagan, 62 Fordham Way, said he is a short walk from the site. He said he supports the project, he thinks it is appropriate for the site, location, and for the times.

Steve Mangion, 14th Street, said he supports the idea of a restaurant, but the points he has are critical points in terms of the operation. He said he spoke to the Chair of the Board of Health and he didn't think Porta Potties would be acceptable, he said he hadn't seen Deb Roger's email and he is not sure who makes that final decision. He said he thinks that deserves some clarification. He said he has been a proponent for a roll away set up, he thinks it is a much more sanitary option.

M. Taylor said her understanding was that these sorts of things were within the jurisdiction of the Health Agent.

L. Murphy said he agrees and nothing they do here is going to limit the authority of the Board of Health to take any action they feel necessary in the future.

G. Morse said that the Health Agent is the authority.

W. Knight, L. Matthews, and M. Stohn all agreed.

S. Mangion noted that in the Golf Center project the Planning Board took into account nearby abutters when determining the hours of operation and said it might be appropriate to do that in this situation. He said with a large amount of people outside, it might become a noise issue for a residential area. He suggested the outside seating be tied to sunset as the Golf Center was, he said that would not affect indoor seating.

P. Paicos said the Golf Center was a very different scenario – operation was dependent on lighting and the ability to have lighting available.

The rest of the Board agreed with P. Paicos comments.

G. Morse said the Select Board has the final say on the hours.

W. Knight said he agrees and that the applicant should be mindful of the outdoor noise.

L. Matthews said that the time the kitchen and the bar closes should be consistent so that customers know what to expect.

M. Taylor said the Liquor License is the hours that they can serve alcohol and the State sets those hours at 11 a.m. to 11 p.m.

M. Stohn said she understands what S. Mangion is saying and she doesn't see the comparison.

S. Mangion said he thinks that there might be an underestimation of the effect the added traffic will have. He said he thinks it would be appropriate to have a site specific traffic study done, during the high traffic season. He said that the MVPC study that the Board is relying on was not done in a high traffic time. He said it could be a condition of the Decision.

M. Taylor said MVPC did do a traffic study on Plum Island Turnpike, just west of Sunset, starting on August 5, 2019 and it was 24 hours for five or six days, so that would have been a fairly high traffic time.

S. Sawyer said they used that information and the input from the MVPC, which led to the reorganization of the traffic direction to and through the site.

S. Mangion said the study he was talking about predates the one M. Taylor mentioned, but he is still concerned about the traffic.

L. Murphy said there is no question that traffic is going to increase. He said he thinks they have done what is open to them in terms of rerouting the traffic. He said let's say there is a traffic study and they learn that during peak hours the traffic is going to be heavier than anticipated, he is not sure what they do with that. The issue really goes to the suitability of this site for the proposed use and that ship has sailed, the ZBA has granted a special permit for the use. He said he just doesn't know if any further traffic study is going to give them more information than what they have now.

G. Morse said traffic studies are objective and most of the traffic is going to the beach, he doesn't see that this restaurant would deeply affect it.

W. Knight said that there are a lot of other destinations on the Island. A traffic study might not tell us much more than we already know.

L. Matthews said she thinks the way it has been rerouted is going to be the best way to do it.

M. Stohn repeated L. Murphy's comment that that ship has sailed.

S. Mangion said his last point is to support what is already in the Document, that parking shall be only for the restaurant and not for other commercial activities. He hopes that will remain.

Jeremiah Murphy, 81 Southern Boulevard, said his family owns property on 14th Street and 163 Old Point Road. He said he is not opposed to the development of this property, just this particular use because of the traffic, noise, and odor concerns. He said one thing to note is that intersection is used by a lot of pedestrians and cyclists. He said people are curious where Old Point Road leads to and they drive down to the turn around and return – he said it would be nice to preserve the road. He said maybe they can add a local traffic only sign.

P. Paicos asked M. Taylor if there was something they could do with the Highway Department.

M. Taylor said she thinks that would need to be brought up with the Select Board and the DPW Director. She said MVPC is continuously looking at areas through town and if in the future there are issues here, then this might be an area for them to study again.

Angelica Reynoso, 10 Old Point Road, said she has lived there since October 1st and October 5th the access drive was being made. She said she had asked in October if there would be a fence because she has two small children. She said she has seen all kinds of equipment and work being done and she is still asking when this fence is going to be installed. She said she doesn't understand how all this work can be done, she is boxed in, there is a tarp fence four feet from her door. She understands the delays because of COVID, but she needs to know, her concern is her children. She said there are people using the water spigot on the side of her house. There have been multiple occasions she had to call the Newbury Police because there was jackhammering at 6:00 a.m. She asked what construction was going to entail and when it was going to start. She asked if there would be yellow cement safety poles so that someone cannot drive through to her side of the fence and possibly injure someone.

P. Paicos asked M. Taylor whether site work has been done, or just demolition.

M. Taylor said demolition of the old auto repair shop and the house had been done. There has also been some prep work inside the garage. She said she spoke with V. Godin this morning and has spoken with Peter Binette, the Building Inspector. There was some plumbing work that was done outside the garage. She understands there was a hole that was dug and a bobcat was smoothing things out. She said V. Godin may be able to address the work that has been done.

V. Godin said that as part of the demolition, the asphalt surrounding those buildings was removed. There was a hole dug as part of the plumbing permit they received from P. Binette and an inspection occurred in the last couple of days. He said in order to fill in the trenching that occurred inside they needed to have a place that it was capped outside that they could get to. He said they did install a temporary fence, unfortunately with COVID and what has been going on with lumber, they were promised their fencing but it had been delayed. He said they were told today that their first fencing will arrive next week.

He said he told A. Reynoso that the section adjacent to her house will be the first to receive permanent fencing.

P. Paicos asked if it would make sense that nothing else happens on the site until that fence is up.

V. Godin said that was his original goal, but he has been told he is going to be receiving the fencing in stages. His priority is that back section between those two properties and then do the remainder of the property. He said he does not have a timeline for when it will all be there, but in the meantime there is a temporary fence.

L. Murphy said he completely appreciated the point that A. Reynoso is making. He asked V. Godin how long the build out is going to take and when everything would be up and running.

V. Godin said they are hoping in the next three to four weeks. He said in the interior the bulk of the heavy work has been done.

L. Murphy said that is a relatively short period of time and he is sure they will be sensitive to the neighbors' concerns.

George Simas, 80B Southern Boulevard, said he has seen a lot of development, it's a wonderful and beautiful place, to him it is a matter of managing it. He said he has frequented the restaurants that the applicants have, as well as the store, and based on how they have managed their properties, the service levels, and how they have carried their businesses makes him an advocate and supporter for this project. He said the traffic does get a bit hectic, but not as bad as in other places. He said there is huge value in improving what they have on the island, it is a benefit to all.

Jeremiah Murphy said that he just wanted to mention that the fencing that is out there right now is fencing similar to what you would put next to hay bales. He hoped that the situation would be rectified soon.

Sue McLeroth, 3 10th Street, said she is in support of this project. She said that porta potties work at the center, so why wouldn't they work somewhere else, and that they get more people down at the beach than what they will probably see here. She said they have always had traffic issues out here on the Island, and she doesn't think this place will cause any more trouble than what they already see. She said we have all put up with construction here on the Island, it has grown so much since she has lived here. She said V. Godin and his team have brought such value to the Island and she expects this to be the same.

Dan Graovac, 7 58th Street, said he is excited about this project. He feels the team has done all they can to be considerate. He said he is looking forward to a place you can walk to from home. He said it is progress and he is fully supportive.

Jim Stewart, 22 Old Point Road, said in reference to A. Reynoso's situation, that everyone has been affected by the pandemic and there is business risk with everything we

do. He asked why would you give him a pass with the fence – make him get the right fence up, then proceed with construction.

S. Mangion said he had sent a message to Steve Fram, the elected Chair of the Board of Health, asking about the porta potties and flush toilets and who would make the decision and asked him to contact the Planning Board, as he has asked the Planning Board to contact Steve Fram.

Janice Forrest, 72 Old Point Road, said she is not really against this project, she thinks it's a nice idea, but is sure she will be affected by the traffic. She asked if during construction there would be some type of police detail or something to direct traffic. She asked about the landscaping in the right of way, if there had been any changed plans.

P. Paicos said that the Applicant pulled the project back to be out of the right of way – that was done after their second meeting. He asked M. Taylor about the police detail question – if construction is not confined to the site, are there special requirements for that. She said she is not sure, but that it might be appropriate to contact the police for a detail – she doesn't know if there is a construction plan set up or how they will be staging things.

V. Godin said that there is ample room on the east side of the property, the parking area, for any and all construction vehicles. They don't anticipate needing more area, if they did they would reach out to M. Taylor or the Police Department to make sure that they were aware of it.

J. Forrest said the other comment she had was that the distance between the house next door and the back corner of the existing garage seems really narrow to her to have cars going back and forth through there. Otherwise it looks like it is going to be a nice venue when finished.

S. Sawyer said they have a 15 foot wide one-way access, which is the requirement. He said between the fence and the building there are 2 feet on either side so they have another 4 feet of buffer.

Patrick Pollard, 24 Dartmouth Way, said that he wanted to voice his support of this project. He said since this family took over the Cottage, they have been amazing ambassadors to people visiting the Island. He said it has been awesome to see that business grow and represent Plum Island in such a positive way. He said he is excited to see the restaurant do the same.

Joyce Machiros, 5 Sunset Drive, said she is one of the former owners of the property and she is in favor of this, it will be a wonderful addition to the neighborhood and she is looking forward to being able to walk there to have something to eat with friends.

Katie Fahey-Anderson, 3 50th Street, said she grew up here and she just wanted to advocate for the project. The Cottage has been a wonderful addition and she said she thinks it is important that they are locals.

Kristin Callahan, 30 Harvard Way, said she just wanted to voice her support and is looking forward to the restaurant.

P. Paicos said if there were no more public comments or Board comments, he would ask for a motion to approve the proposed Site Plan for the Sunset Club and to approve the Decision as it was amended this evening.

Motion: A motion was made by L. Murphy and seconded by L. Matthews to approve the Site Plan, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager and to approve the Decision as amended. A roll call vote was taken. P. Paicos, yes; L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes.

Motion: A motion was made by L. Murphy and seconded by W. Knight to close the Public Hearing for Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager. A roll call vote was taken. P. Paicos, yes; L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes.

A motion was made by L. Matthews and seconded by L. Murphy to adjourn the Planning Board meeting at 8:38 p.m. A roll call vote was taken. P. Paicos, yes; L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes.

Respectfully Submitted,

Emily Noble
Planning Board Administrator