

---

## Planning Board Minutes 04-01-2015

### Mashpee Planning Board

#### Minutes of Meeting

April 1, 2015 at 7:00 p.m.

Waquoit Meeting Room, Mashpee Town Hall

Approved 4/15/15

**Planning Board Members Present:** Mary Waygan, Dennis Balzarini, David Kooharian, Joe Cummings

**Also Present:** Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer

**Absent:** Chairman George Petersen, Robert Hansen

### CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Vice-Chair Waygan at 7:05 p.m. on Wednesday, April 1, 2015 and the Pledge of Allegiance was recited.

### APPROVAL OF MINUTES—March 4, 2015

**MOTION:** Mr. Balzarini made a motion to approve the minutes as presented for March 4. Mr. Kooharian seconded the motion. All voted unanimously.

### PUBLIC HEARINGS

**7:10** Hearing under the provisions of Massachusetts General Laws Chapter 40, Section 5 to consider the following amendments to the Mashpee Zoning By-laws submitted for the May 4, 2015 Town Meeting:

- An article amending the zoning map to include those parcels shown on the 2014 Mashpee Assessors' Maps as Map 27, Block 46 and Map 28, Block 3 within the C-2 Commercial zoning district
- An article amending the zoning bylaw to allow pub breweries or "brew pubs" and microbreweries in certain zoning districts by Special Permit

Vice Chair Waygan opened the public hearing and read for the record the public hearing notice. There was no public comment. Mr. Balzarini stated that he thought the proposed bylaw amendment was a good idea and Mr. Kooharian agreed that it would be a good business to allow in Mashpee.

**MOTION:** Mr. Balzarini made a motion to close the public hearing. Mr. Kooharian seconded the motion. All voted unanimously.

**MOTION:** Mr. Kooharian made a motion to recommend both amendments to the Mashpee Zoning Bylaw as presented to the Mashpee Board of Selectmen and Town Meeting. Mr. Balzarini seconded the motion. All voted unanimously.

**7:20 Applicant:** Summerfield Park Realty Trust, Kevin Andrade, Jr.

**Location:** 800 Falmouth Road, Assessors' Map 88, Block 2

**Request:** Special Permit modification application to add limited retail use per Zoning Section 174-24.H.

Matt Costa represented the applicant with their request to amend their special permit to include light, or "other" retail use, with no changes to the site. Mr. Costa referenced the site plan highlighting all the buildings at the site, as well as the parking spaces. The applicant was seeking 9,000 square feet of light retail use and an excess of required parking spaces was already in place. The applicant was seeking to increase the number of tenants at the site. Mr. Costa stated that Design Review had no issues with the application. The septic would be calculated once occupancy permits were acquired for the new tenants. There were no additional questions from the Board

**MOTION: Mr. Balzarini made a motion to close the 7:20 public hearing. Mr. Kooharian seconded the motion. All voted unanimously.**

**MOTION: Mr. Kooharian made a motion to accept the Modification of Special Permit as presented by the Town Planner in this written modification. Mr. Balzarini seconded the motion. All voted unanimously.**  
The decision was signed by Mr. Kooharian.

**7:30 Applicant: Jack Carter**

**Location: 161 Commercial Street, Assessors' Map 88, Block 19**

**Request: Special Permit application for Auto Sales establishment**

Vice Chair Waygan opened the public hearing and read for the record the notice. Attorney Brian Wall was present to represent the applicant, along with applicant Jack Carter, but they were awaiting the arrival of the project engineer.

**MOTION: Mr. Balzarini made a motion to continue the public hearing to 7:40 p.m. Mr. Kooharian seconded the motion. All voted unanimously.**

The appointed time having arrived, the Vice Chair again read the public hearing notice and opened the public hearing. Mr. Wall summarized the application request for a Special Permit allowing the sale of automobiles and repair in an auto industrial zone. Mr. Wall noted that Mr. Carter had been a longtime owner of Hyannis and Orleans Toyota up until the time of his retirement. Mr. Carter has now expressed interest in buying and selling classic automobiles, as well as offering repair, at 161 Commercial Street. The building would be 7,432 square feet and include an office and two car lifts along with a store and display area. A paved area surrounding the building would provide parking on the side as well as outdoor display in front of the building. Town Counsel has reviewed the outdoor display area for inventory and determined that the bylaw for parking was satisfied with parking provided on the side. The building, on 1.7 acres and 200 feet of frontage would comply with all setbacks and height requirements in the industrial zone and was approved by Site Approval. One to two employees would work at the site in addition to Mr. Carter. The project would be tastefully completed with signage that would be small and no pennants or banners would be utilized at the site. There would be no impact to Town services and the project would add to the tax base and serve as an asset to the Town.

Dan Ojala, a professional engineer and land surveyor presented the specifics of the revised plans, which included the relocation of striping for handicap parking. Mr. Ojala noted that the straightforward layout of the building would be located on the west side of Commercial Street, adjacent to Capewide Enterprises. Mr. Ojala noted that the site access had been laid out for truck turning in consultation with the Mashpee Fire Department, as well as a T-Base fire lane in an effort to limit impervious surfaces. Mr. Ojala described the location of the display area, as well as the principal parking, and noted the availability of handicap parking closest to the front entrance. Mr. Ojala confirmed that the Board of Health approved the project with standard conditions. The drainage system was developed as per Mashpee and State guidelines and Mr. Ojala described the specifics of the proposed system. A detailed landscape plan had also been developed for the site and the sign had already been submitted to Design Review. Mr. Ojala also described the floor drains inside the building and confirmed that irrigation would be installed to maintain the landscaping.

Mr. Rowley expressed concern regarding the drainage area located at the back, which was the lowest point on the site, and its ability to meet the 100 year storm due to contours. Mr. Rowley recommended that it be addressed either with additional infiltration, or elevation for the bottom, in order to ensure protection from any potential run off. Mr. Rowley also stated that there were no Fore Bays needed as a berm to control sediment. Mr. Rowley referenced the T-Base fire access, reclaimed asphalt that compacts, and expressed concern about the catch basins located in the same area which may result in sediment carry over due to the impervious surface. Mr. Rowley recommended paving the surface or removing the catch basins and adding surface treatment to run the flow overland. Mr. Rowley suggested that there were minor details needing to be shown on the plan, such as dimensions for the paved areas and minor adjustments to the contours. Regarding the turning radius, Mr. Rowley expressed concern about a turn for the ladder truck from Commercial Street to the front of the building, suggesting that the curb corners be slightly adjusted.

Mr. Ojala referenced the 100 year event and stated that the overflow would likely be 28 ½ and could be addressed during construction, but noted that a deep basin at Cape Cod Healthcare would address any issues. Mr. Rowley stated that at least a foot of difference was needed between the minimal elevation and the 100 year flood elevation and recommended that the drainage area be depressed rather than be built up. Mr. Ojala believed that their plan met

the letter of the law. Mr. Fudala expressed concern regarding the need for a 10 foot buffer at the rear of the site, noting that the property line was cleared to the drainage area. Mr. Ojala responded that the bylaw allowed for a landscape plan that included a screening brush. Mr. Fudala pointed out that only a portion of landscaping had been identified, and that, without a letter from the property owner, the Planning Board could not waive the 10 foot natural buffer. Mr. Fudala suggested relocating the retention area away from the property line. Mr. Ojala referenced a stand of trees that would provide a buffer for the retention area. Mr. Balzarini stated that a letter would be needed from the abutter. Mr. Ojala stated that it was his belief that the Planning Board could waive the requirement as long as the landscaping provided a buffer. The Vice Chair stated that the Planning Board would not waive the 10 foot natural buffer zone without a compelling reason. Mr. Ojala stated that he would add bushes or relocate the drainage 10 feet. Mr. Ojala expressed concern about the slopes but indicated that he would make the change.

Regarding the Fore Bays, Mr. Ojala stated that he would consult with Mr. Carter, though he felt the plan met the letter of the law as is. Regarding the fire lane access and T-Base surface, Mr. Ojala stated that a smoother surface would be provided to improve infiltration. Mr. Rowley suggested that snow plows would likely ruin the surface and did not agree with maintaining the catch basins in that area and again shared his reasoning. Mr. Ojala agreed to remove the two catch basins and regrade the area and draft the revisions. Mr. Fudala inquired whether the surface would hold the fire trucks and Mr. Rowley confirmed that it would be suitable with the use of the platform and stabilizers. In reference to the curbing issues at the front of the building, Mr. Ojala indicated that he had met with the Fire Department and did not want to re-radius the curb due to attractive trees in the area. Mr. Rowley recommended that tapering would be minimal and occur at the outside radius of the island, and would not impact the trees. Mr. Ojala agreed to re-radius the island. There was discussion about the display area and confirmation that a 24 foot aisle would be maintained for fire access. A note should be added that vehicles would be located closest to the building. The Vice Chair confirmed that items 3-10 will be adjusted for the plans.

Mr. Balzarini inquired whether the display cars would be relocated to the interior of the building and Mr. Ojala responded that the more valuable cars would be moved at night. Mr. Balzarini inquired about repairs and it was confirmed that painting would not occur at the site. The Vice Chair requested that the condition regarding non-use of pennants and flags be added to the Special Permit Decision. The Vice Chair inquired about the number of vehicles that would be displayed out front and inquired about adding it to the Decision. Mr. Carter suggested possibly 8-10 cars and Mr. Ojala responded that 8 and then 6 could be placed on display and recommended that wording such as "display would be no more denser than a normal bay of parking" be utilized in the decision. There was consensus from the Board about utilizing that wording. Mr. Fudala inquired about lighting and Mr. Ojala confirmed that the lighting would be shielded as downward LEDs with zero cutoff at the property line. Mr. Wall requested the specific language regarding display parking. It was thought that there would be no more than 16 cars located at the front of the building but Mr. Ojala indicated that 26 could potentially fit in the space. Mr. Ojala stated that there were 40 cars parked at the site across the street. Design Review suggested that the number of cars may detract from the metal building. The Vice Chair struck the condition, particularly as the fire lane would create restrictions of the space. Mr. Rowley inquired about parking for cars awaiting service and Mr. Ojala stated that spaces on the side of the building would be sufficient.

Mr. Fudala read through the drafted Decision. There was discussion regarding the reason why the Planning Board was hearing the issue. Mr. Fudala pointed out the relocation of handicap parking to the front of the building, at Mr. Carter's request, which would require authorization from the Board.

**MOTION: Mr. Balzarini made a motion to allow the handicap parking space in front of the building because it improves public safety. Mr. Kooharian seconded the motion. All voted unanimously.**

Mr. Fudala continued with the review of the decision. Mr. Ojala inquired whether the permit could be approved contingent upon revisions and the Vice Chair responded that the Planning Board typically did not vote to conditionally approve a permit. Mr. Fudala suggested the addition of three additional conditions to include, subject to the issuance of an auto sales license from the Board of Selectmen, confirmation that all lighting should be downlighting and the applicant will conform with the representations made by Attorney Wall in his February 27<sup>th</sup> letter regarding balloons, banners and pennants. There were no additional comments, including from the public. The Vice Chair recommended that the changes be made to the plans and submitted to Mr. Rowley for his review, prior to the next meeting. Kevin Peppe of Commercial Realty Advisors, broker of record, inquired about the approval, noting that the Purchase and Sales required time to receive permits and requested that the request be conditionally approved. The Vice Chair responded that there were too many revisions so the changes needed to be made and presented at the next meeting. There was consensus from the Board, though there was agreement that the Board would end up voting to approve the permit.

**MOTION: Mr. Balzarini made a motion to continue the public hearing to April 15 at 7:30 p.m. Mr. Kooharian seconded the motion. All voted unanimously.**

#### **DEFINITIVE SUBDIVISION PLAN**

**Applicant: SGFS Realty Trust / John Slavinsky et. al. Trustees**

**Location: 424 Whittings Road (845 Falmouth Road), Assessors' Map 87, Block 7**

**Request: Definitive Plan application for 3-lot cluster subdivision (schedule public hearing)**

There was discussion about scheduling the public hearing for May 20. Matt Costa, representing the applicant, indicated that the subdivision plan was to be coupled with the Special Permit in two weeks to be heard together.

**MOTION: Mr. Kooharian made a motion to schedule the Public Hearing for the Definitive Subdivision Plan for SCFS Realty Trust on April 15 at the same time as the associated Public Hearing for the Special Permit. Mr. Balzarini seconded the motion. All voted unanimously.**

The Vice Chair inquired whether there was paperwork needed for Mr. Fudala and Mr. Costa responded that it was all set. Later in the meeting, Mr. Fudala inquired about the filing from Mr. Costa, noting that he had the Special Permit and the Definitive Subdivision Plan, but not the application materials or fees.

**Applicant: Bayswater Development, LLC**

**Location: The Cottages at New Seabury - Phase II, off Cross Road in New Seabury Section 5**

**Request: Re-signature of 59 lot (54 building lots) Definitive Subdivision Plan approved 1/7/15**

Plan signatures were needed for the Land Court modification. Mr. Fudala stated that numbering of the streets as lots were changed. The plans were signed by Planning Board members.

#### **RELEASE OF PERFORMANCE GUARANTEE**

**Applicant: Peter & Jane Chin / Ralph Secino, agent**

**Location: 35 Fox Hill Road**

**Request: Release of road covenant on Lot 35 of Conaunet Highlands subdivision**

Mr. Rowley indicated that detailed information had not yet been received. Mr. Rowley stated that he believed that the applicant would be looking for an extension to finalize the plans. Drainage would need to be assessed by Mr. Rowley. Mr. Fudala confirmed that details were being worked out between the seller and the buyer in order to pay for the engineering and construction.

**Applicant: Dan Marsters / Kevin Kirrane, agent**

**Location: 238 Old Barnstable Road**

**Request: Release of road covenant**

The Vice Chair read the request. Kevin Kirrane was present to represent the applicant. Mr. Kirrane summarized the subdivision plan that was approved in the 1970s and Mr. Marsters' plans to develop a building on the lot. Upon examination on the title, it was discovered that a Planning Board note had been added to the covenant release that precluded access from the lot and others to Old Barnstable/Falmouth Road. No one had discovered the note as permits were being issued. Mr. Kirrane stated that he had never seen a note like this on a covenant release, but the lender found the provision. The driveway has been designed with a turnaround so as not to back into Old Barnstable Road and the site distances from the proposed driveway are substantial. As a result, egress can occur in a safe manner. Mr. Fudala stated that the other lots had other accesses available to them but Mr. Marsters' home had already been built facing the other direction. Mr. Kirrane suggested that a new covenant release without the condition be added to the document to prevent future problems. There was no explanation or records in the file regarding the reasoning for the note.

**MOTION: Ms. Waygan made a motion that the Planning Board removes the condition relative to Lot 4 regarding access to Old Barnstable/Falmouth Road and issue an additional covenant release. Mr. Kooharian seconded the motion. All voted unanimously.**

Planning Board members signed the covenant release.

#### **TOWN ROAD TAKINGS**

**Planning Board recommendation on May 4, 2015 Annual Town Meeting Article to accept as public**

**ways the layouts of Jonas Drive, Valerie Circle and Rachele Court**

**Planning Board recommendation on May 4, 2015 Annual Town Meeting Article to accept as a public way the layout of Saddleback Road**

Vice Chair Waygan stated her preference to review the plans at the next meeting. Mr. Rowley indicated that the streets had been approved by the Planning Board some time ago. The Vice Chair indicated that she will not be able to attend Town Meeting and a spokesperson was needed to discuss the Board's recommendations. Mr. Fudala will draft a list of votes for the Planning Board. Mr. Balzarini agreed to attend and Mr. Cummings agreed to serve as back up. The meeting is Monday, May 4.

**BOARD ITEMS**

**Old Business**

**Discussion of Greenways Proposal and Surrounding Commercial Property**-No update

**MMR Military Civilian Community Council-Update of MMR Joint Land Use**

**Study**-No update

**Community Preservation Committee**-Work has been initiated across the street from Town Hall at the park using CPC funds.

**Environmental Oversight Committee**-No update

**Historic District Commission**-No update

**Design Review Committee**-Mr. Cummings reported about Mr. Carter's application and 424 Whittings Road which was a request to subdivide the site into three parcels. There was concern regarding the size of the lots and access to Route 28, requiring a large enough driveway for the fire truck to turn around.

**New Business**

**C. Rowley March 2015 Invoices**-An invoice was received in the amount of \$195 for Planning Board Services at the March meeting.

**MOTION: Mr. Kooharian made a motion to approve the invoice for Mr. Rowley for \$195. Mr. Balzarini seconded the motion. All voted unanimously.**

The warrant was signed by the Planning Board members.

**WATERWAYS LICENSE**

-114 Summersea RT, Constance R. Connors, Tr., stairs, landings, pier, ramp & float in Ockway Bay

**CORRESPONDENCE**

-SouthCape Village December 2014 WWTP discharge monitoring report N=8.1

-SouthCape Village January 2015 WWTP discharge monitoring report N=10.7

**ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting adjourned at 9:25 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

**LIST OF DOCUMENTS**

-Brew Pubs Public Hearing Notice

-Draft Town Meeting Warrant

-C-2 Zoning Map Change

-Summerfield Park Modification of Special Permit

-Summerfield Park Plan Review & Design Review Minutes

- Jack Carter "Classic Cars of Mashpee" Special Permit Decision Draft
- Jack Carter Site Plans
- Board of Health Requirements for Commercial Buildings
- Jack Carter Plan Review & Design Review Minutes
- Memo from Building Commissioner Michael Mendoza Regarding 161 Commercial Street
- Jack Carter Addendum Sketch
- Kevin Kirrane Letter Regarding 238 Old Barnstable Road