

Fair Haven Planning Commission
Town of Fair Haven - November 2, 2022 - Regular Meeting

Commissioners Present: David Eighmey - Chair, Robert Richards - Vice Chair, Cindy Pritchard, Linda Sienkiewicz, Lorraine Brown, Patrick Frazier

Commissioners Absent: Deborah Laiacona - clerk,

Others Present: Phil Adams - Zoning Administrator, Jennifer Jackson - minute-taker

1. Call to Order:

Mr. Eighmey called the meeting to order at 7:06pm.

2. New Business: None

3. Review of Minutes of Previous Meeting:

a. Approval of Minutes: Regular Meeting of October 12, 2022

b. The Recording secretary let the Planning Commission know that Mr. Richards, via email, let her know that she did not include the word "day" on page two, first paragraph last sentence following "The process of change requires a 15 day zoning warning etc."

c. Mrs. Pritchard **motioned to approve, with the addition of the word "day", the October 12, 2022 meeting minutes.** Mr. Richards seconded the motion. All were in favor and the motion carried.

4. Other Business:

a. Review of Mail:

- i. ZA Adams received a copy of an email from the town clerk. The email contained a notice that the application for the Citgo Station was incomplete and needed more information added before the State would grant the application. ZA Adams stated the gas station hadn't applied for a town permit yet, so he has no knowledge of what the gas station is trying to apply for or do. But because of ACT 250 the town had to be notified that the state application was rejected due to missing information. ZA Adams sent the notice to the PC and the Selectboard. Mr. Richards stated that he believed they applied to add a general quick food addition to the station and to change the way customers enter and exit the station.
ZA Adams stated the only change with the property he has record of is the combination of the once three way subdivided land into only two separate properties.

Mr. Richards asked which comes first is the application approval process, Act 250 approval or town approval. ZA Adams stated that he

usually advises people to check with state requirements before they apply for permits with the town because the State has more control. ZA Adams stated to the PC that this email was just information for the town so they are aware that development may be coming to the town.

Mr. Eighmey asked ZA Adams if he had heard anything about Dunkin Donuts and their development plans. ZA Adams stated that the permit states that all development authorized by the permit shall be substantially commenced within 9 months of issuance for the permit to remain pertinent. If there hasn't been substantial construction completed all Dunkin Donuts will need to do, if there are no changes to the original design, is re-pay the permit fee and another permit can be issued.

Mr. Frazier stated he heard that McDonalds scratched their redesign project because the building will be under new ownership.

b. Other- Zoning Regulation update - 30 minutes:

- i. ZA Adams asked the PC if they would review the zoning regulations on fencing. He asked the PC to look at Section 913 - Fences pg 39 paragraph 5 "*A fence will be considered a structure unless it is four (4) feet or less in height and is used to enclose a garden or animal pen.*" and to look at Section 1202 - Exemptions pg 47 number 8 "*Residential entry stairs (excluding decks and porches), handicap access ramps, walkways and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.*" He feels that page 39 is more restrictive than page 47 and would like the regulations to match as best as possible. Mrs. Sienkiewicz stated that the PC should just get rid of section 913 paragraph 5.

There is also a definition of fence on page 5 "*Anything constructed or erected to act as a barrier to travel either on foot or by vehicle. A fence is considered a structure for zoning purposes. Temporary garden fences are exempt. A fence will be considered a structure unless it is four(4) feet or less in height and is used to enclose a garden or animal pen.*" Mrs. Pritchard stated that all should say "4 feet or less." ZA Adams stated that page 47 is a complete exemption for fences and that page 39 is for animal and garden fences. Mrs. Pritchard stated that if we got rid of section 913 paragraph 5 the PC would have to change the definition of a fence.

ZA Adams stated that he is bringing this to the PC's attention because a case was brought before environmental court dealing with a fence put up "insideout". The court ruled because section 913 in the last paragraph stated "*All fences shall be constructed so that the finished side faces outward. Any legally existing fence may be replaced in the same location by another fence of no greater height without a zoning permit.*"

that the homeowner had to take their fence down and make sure the fence was wired on the correct side - the finished side on the outside. Mr. Richards stated he believes what the PC should do is keep the face on the outside, but get rid of the page 39 fence definition. ZA Adams stressed making the exemption clear. Mr. Richard **motioned that the zoning bylaws should be changed to remove from the definition of fence and from page 39 paragraph 5 "and is used to enclose a garden or animal pen". And that on page 47 #8 should be changed to read "4 feet or less"**. Mrs. Brown second the motion. ZA Adams stated that anyone could appeal if a fence wasn't facing outwards. Mrs. Pritchard agrees that ALL fences, no matter what, should have the finished side out. All were in favor and the motion passed.

- ii. Chairman Eighmey asked the PC to turn their attention to the issue of changing lot size and parking in the zoning regulations. He stated he would not be ok with a smaller lot size if it meant the buildings were closer together as this would affect the firefighters abilities to keep the buildings safe. He asked the PC what they would like to do. Mr. Richards stated that lot size and parking were two different arguments. He stated he understood and agreed with Mr. Bove's argument that larger lot sizes are anti-business. He is for the change in the commercial district. Mrs. Pritchard clarified that the PC should be looking at Page 17 Table 2 for this discussion. Mr. Richards said that Mr. Bove recommended that the Maximum building coverage be allowed up to 80% of the land area. He believes that business owners would not be allowed to build unsafe structures because they would not be able to obtain insurance if their building is a fire hazard. Also that the business owners, in general, do not want to impede their businesses; that the PC needs to put that trust in them.

Mr. Eighmey asked what the minimum lot size should be reduced to.

Mrs. Pritchard **motioned to reduce the minimum lot size requirement to 6500 ft² in Commercial Districts and increase the maximum building coverage to 80% in the Commercial District.** Mr. Richards seconded the motion.

ZA Adams asked the PC to look at Industrial districts in the same manner. Mr. Richards stated that they probably need more room by definition but he assumes that Fair Haven will not be obtaining another GE in the near future more likely smaller businesses that in fact require less space.

Mrs. Pritchard **motioned to amend her original motion to include, and to reduce the minimum lot size requirement to 6500 ft² in the Industrial District and increase the maximum building**

coverage to 80% in the Industrial District. Mr. Richards seconded the motion. ZA Adams stated that they still would need to follow all setbacks and other minimums. He encouraged the PC to look at the other restrictions as they could be creating funky small building lots. Mrs. Sienkiewicz stated that the minimum lot width needed to be changed as well then. Mr. Richards stated that maybe this is where they needed help from Mr. Bove as to what other towns do.

Chairman Eighmey pointed out an asterisk in the chart that leads to section 1001. ZA Adams stated that the asterisk means that one doesn't have to push the dwelling back to the required setback in an established street as long as the new dwelling fits in with the other homes.

Mr. Richards stated that he believed the PC should vote on the changes and then give the chart to Mr. Bove and the RRPC to help decipher what the setbacks should be with the modified lot size and building coverage which the PC could then vote on.

Mr. Eighmey called for a vote on Mrs. Pritchard motion. All were in favor of the amended motion and the motion passed.

- iii. Chairman Eighmey then asked the PC about parking modifications. Mr. Richards stated that reducing the residential parking spaces was not well received in general. He understands Mr. Bove's reasoning for the reduction; that by reducing parking spaces it is easier to use the space you have the way you want. Mrs. Brown **motions to leave Section 701 bullet point number 1 as written.** The motion was seconded by Mrs. Pritchard. All were in favor and the motion passed.

Mr. Richards then asked the Planning Commission about commercial parking and parking for restaurants. Section 701 bullet point numbers 3 and 5. He stated the suggestion from RRPC and Mr. Bove was to change the Places of Public Assembly requirement to 1 parking space per every 300ft² of area used for assembly. It was also suggested to change the restaurant establishments parking to 1 parking space per every 4 seats and 1 parking space per every 5 employees. He made a **motion to change Section 701 #3 Places of Public Assembly to state "Every structure used as a theater, amusement facility, auditorium, community center, club, stadium, library, museum, church, hall, or other place of public or private assembly: 1 parking space per every 300 ft² of area used for assembly". And to change Section 701 #5 Restaurant, eating, and drinking establishments to state "One (1) parking space per every four (4) seats and one (1) parking space per every five (5) employees."** Mrs. Sienkiewicz seconded the motion. All were in favor and the motion passed.

- iv. ZA Adams brought up section 704 Impervious Surface Requirements "*Impervious surface shall not exceed 75%% of the total lot area to include any structures.*" This was added originally to support the idea of not "paving paradise." With the change in lot size and coverage this bylaw does not align. Mr. Eighmey asked if this covered residential areas also. To which ZA Adams responded that it did. He stated that what you have seen developed may have been created the way it was because it was trying to conform to Fair Haven Zoning Bylaws not to the developers desire to leave green space. Mrs. Brown **motioned to remove section 704 - Impervious Surface Requirements on page 30.** The motion was seconded by Mrs. Pritchard. All were in favor of the motion and the motion passed.

ZA Adams pointed out on page 27 Section 504 (1) c; "*Adequacy of landscaping in regard to achieving maximum compatibility and protection to adjacent property.*" Mrs. Pritchard stated that this section leaves room for asking for developments to include more green space.

Mrs. Pritchard **motioned to remove the Impervious Surface definition on page 6.** The motion was seconded by Mrs. Brown. All were in favor and the motion passed.

- v. ZA Adams asked about page 30 Section 705 which mentions the *ITE Parking Generation* manual. ZA Adams does not know what this manual is and cannot find this manual anywhere in the Town Offices. Mr. Richards stated he would ask Mr. Bove about it.

c. Public Comment: None

5. Adjournment:

- a. Mrs. Sienkiewicz **motioned to adjourn the meeting at 8:25 pm.** The motion was seconded by Mr. Frazier. All were in favor and the meeting was adjourned.

**** Next Scheduled Regular Planning Commission Meeting is on November 16, 2022****

Respectfully Submitted,
Jennifer Jackson, Minute-taker