



Town of Hampden

Planning Board

Wednesday April 12, 2017, 7:00 pm

Municipal Building Council Chambers

Minutes

In Attendance:

Planning Board

Peter Weatherbee, Acting Chair
Kelley Wiltbank
Michael Avery
Mort Syversen
Jim Davitt
Tom Dorrity

Staff & Others

Karen Cullen, AICP, Town Planner
Ed Bearor, Town Attorney
Angus Jennings, Town Manager
Ivan McPike, Town Councilor

Jon Pottle, Attorney for MRC/Fiberight

Acting Chairman Weatherbee called the meeting to order at 7:00 pm. He noted that Joan Reilly has resigned from the Board due to the need to move out of state to handle family matters, and he thanked her for her service to the Town. He then appointed Tom Dorrity, Alternate, to be a voting member for tonight's meeting.

1. Administrative

a. Minutes of March 8, 2017 meeting: Motion by Member Wiltbank to approve as submitted; second by Member Davitt, carried 5/0/1 (Syversen abstained).

2. Old Business: none.

3. New Business

a. Minor Site Plan Review: MRC/Fiberight. Request for Modification to Planning Board Order and revision to the overall property boundary for the purpose of establishing frontage on Coldbrook Road to allow construction of the Fiberight facility to proceed in a timely fashion.

Acting Chairman Weatherbee noted that a public hearing is not needed for this modification per the Board Order issued last July. He invited the applicant to speak on the request.

Jon Pottle, attorney with Eaton Peabody and representing MRC/Fiberight gave a brief summary of the request:

- The change to the parcel boundary is to incorporate the right-of-way and a parcel on Coldbrook Road; it will be owned fee-interest by MRC.
- This will allow a building permit to be issued
- The proposed change to condition 21 of the Order allows MRC to get the building permit now, with surety to the town for road construction which allows the town to complete the road in the event MRC doesn't.

Planner Cullen summarized her report (attached and incorporated into the record).

Q/A and Discussion:

- Regarding schedule of construction and opening of the facility; these changes will allow MRC to continue the construction of the roadway and infrastructure while Fiberight gets the facility construction underway, with the intent of completing everything on time.
- Attorney Bearor said that he has reviewed this proposal and believes it is necessary to allow the applicant to meet their commitments and it does not put the town at risk in any way. The proposed language regarding surety provides the protection the Town needs to ensure there is no risk regarding the construction of the road, and it provides for the possibility that if road acceptance is sought prior to the final course of pavement being laid, the surety can be reduced to the amount necessary to cover that cost.

Member Avery made a motion to grant minor site plan approval for the requested modifications as submitted; seconded by Member Syversen; voted in favor 6/0/0.

- b. Public Hearing: Proposed Zoning Ordinance Amendment to Article 1, General Administration, related to conflicts with other ordinances and the process for amending the zoning ordinance.

Manager Jennings spoke in favor of the amendment but commented that the number of voters for a petition should be lower than 10 percent of the registered voters, which at over 5,000 means one would need over 500 signatures which is too high a bar. He suggested changing it to 50 or 100 registered voters.

Member Davitt made a motion that the Planning Board accept the amendments to Article 1, General Administration, with recommendation to Town Council that it ought to pass. This motion was not seconded at this time.

Discussion ensued on the number of signatures needed for a petition. It was noted that usually when a citizen seeks a zoning change they get the support of either the Planning Board or Town Council and that body initiates the amendment; very few go through the petition process. After discussion, most members agreed that 100 registered voters was reasonable.

The original motion stands at 10 percent; motion died due to lack of a second.

Member Syversen made a motion to approve the amendments to Article 1, General Administration, and refer to Town Council with a recommendation of ought to pass, with a modification from 10 percent of the registered voters to 100 registered voters for amendments initiated by petition; seconded by Member Avery; so voted 6/0/0 by roll call vote.

- c. Public Hearing: Proposed Zoning Ordinance Amendment to Sections 3.7.4, 3.7.6, 7.2, and adding a new Section 4.25 to Article 4, all related to accessory apartments.

Discussion regarding who can rent or occupy accessory apartments; the standards in the language are designed to prevent to the extent possible rental situations that would be inappropriate to the neighborhood.

Member Syversen made a motion that the proposed amendments to sections 3.7.4, 3.7.6, 7.2, and adding a new Section 4.25 to Article 4, all related to accessory apartments be approved as submitted and referred to Town Council with a recommendation ought to pass; seconded by Member Dorrity; so voted 6/0/0 by roll call vote.

- d. Public Hearing: Proposed Zoning Ordinance Amendment to Sections 4.7, Off-Street Parking, Drive-Thru Design, and Bufferyard Requirements, and Section 4.8, Signs (a.k.a. design standards).

Manager Jennings spoke in favor of these proposed amendments; this flexibility is very much needed to allow the Planning Board and Code Enforcement Officer to apply discretion when needed in the application of the Zoning Ordinance to specific projects. He noted one concern with sections 4.7.5 and 4.8.11, both of which refer to criteria for approval of requested waivers dealing with the market value of abutting properties. As a practical matter it is unrealistic to think anyone seeking a waiver would have an appraisal analysis done for a neighborhood, and in fact it is doubtful that the board would ever require it. He suggested striking the clause "market study".

Discussion regarding the ability of the Board to require information on market values in the rare cases where it might be needed; staff and Town Attorney Bearor believe such questions on values are within the purview of the Board under the "change in character of the neighborhood" language.

Discussion regarding terms used in the proposed amendment; changed language in §4.7.5 and 4.8.11 as follows:

- Changed "undesirable" to "unreasonably detrimental"
- Deleted "or market value" and
- Changed "abutting properties" to "surrounding properties".

Member Avery made a motion that the proposed amendments to Sections 4.7, Off-Street Parking, Drive-Thru Design, and Bufferyard Requirements, and Section 4.8, Signs be referred to Town Council with a recommendation ought to pass, with the modifications discussed tonight; seconded by Member Wiltbank; so voted 6/0/0 by roll call vote.

Member Avery noted he will be out the next 3 to 4 weeks and will miss next weeks Ordinance Committee meeting, and thanked his fellow Board members for carrying on in his absence.

The meeting was adjourned at 7:58 pm by motion of Member Wiltbank with second by Member Avery; motion carried 6/0/0.

Respectfully submitted by Karen Cullen, Town Planner

Materials reviewed or handed out at the meeting:

- Minor Site Plan application for MRC/Fiberight; Town Planner's report
- Proposed zoning amendment to Article 1
- Proposed zoning amendment for accessory apartments
- Proposed zoning amendment for flexibility in design standards