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**Planning Board Minutes – October 4, 2016**

A meeting of the Town of Freetown **Planning Board** was held on **October 4, 2016** at the Freetown Senior Center, 227 Chace Rd Freetown, MA **Present:** Keven Desmarais, Nicolas Velozo, Mark Rogers, Robert Jose, Debra Robbins

The Chairman called the meeting to order at 6:01 PM.

A. Public Hearing for proposed amendments to Zoning Bylaws.

The Chairman opened the public hearing for the first proposed amendment, which would add "Commercial Recycling Facility" and "Scrap/Junk/Salvage Yard" to Zoning Bylaws Section 11.2 Definitions. Motion to waive reading of the public hearing notice: Mark Rogers; Second: Nicolas Velozo; all in favor. The proposed definitions are as follows:

"Commercial Recycling Facility": A facility where recyclable material is collected from the public and/or private business and sorted, processed, and/or baled in preparation for shipment to others for remanufacture into new materials.

"Scrap/Junk/Salvage Yard": An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard.

The Chairman stated that in discussions with the Zoning Enforcement Officer, there has been a realization that there is a lack of basic definitions relative to junk yards, recycling centers, etc. The idea of what a boneyard/scrapyard used to be considered has morphed over the years, and these types of facilities have been adapting their activities. No definitions previously existed; these would provide greater clarity for permitting purposes. The ZEO had a suggested change to the definition of a "Commercial Recycling Facility"; there was no other public comment. The Chairman read the definition with the ZEO's change: **"Commercial Recycling Facility":** A facility where recyclable material is collected from the public and/or private business and sorted, processed, and/or baled in preparation for shipment to others for remanufacture into new materials, or as a reused product. Motion to close the public hearing: Mark Rogers; Second: Robert Jose; all in favor. Motion to recommend the definitions for "Scrap/Junk/Salvage Yard" and "Commercial Recycling Facility" as stated with the adjustment by the ZEO: Robert Jose; Second: Nicolas Velozo; all in favor.

The Chairman opened the hearing for the proposed amendments to the Table of Use, which would delete "Scrap or Junk Yards" from the table and insert in place thereof "Scrap/Junk/Salvage Yard" and to change the zoning classification to:

Use	R	B	I	I/2	G	OSR	VR	VB
Scrap/Junk/Salvage Yard	N	N	SP	SP	SP	N	N	N

Motion to waive the reading of the public hearing notice: Mark Rogers; Second: Nicolas Velozo; all in favor. The Chairman explained that the Table of Use outlines where the Board believes certain activities are appropriate to go; He read the proposal to the Table aloud. The Chairman stated that in the past, the Industrial and I2 districts had been determined as the areas where scrap yards should go by-right. Considering the new definition of these facilities, these districts are still where they would be most suitable, but now they would be subject to a special permit process (along with in the General Use district) providing some local oversight. The Planning Technician stated that Town Counsel had reviewed both this article as well as the one prior, and had no objection to the proposed changes. Motion to close the hearing: Mark Rogers; Second: Nicolas Velozo; all in favor. Motion to recommend the change to the Table of Use to reflect as read by the Chairman: Robert Jose; Second: Nicolas Velozo; all in favor.

The Chairman opened the hearing for the proposed amendment to the Sign Bylaw; Debra Robbins recused herself from the hearing. Motion to waive the reading of the public hearing notice: Nicolas Velozo; Second: Robert Jose; motion carries. The Chairman read the proposed Article, submitted by petition; which would amend the 11.20 Sign Bylaw by

adding a new section, 11.20J Digital/Electric Billboard Zoning Overlay District and Requirements. Atty. Tom Pursley, representing Cove Outdoor LLC approached the Board and introduced Peter McClary, consultant at Cove Outdoor LLC. The Board reviewed the copies of the petition bylaw.¹ Atty. Pursley stated that the Town currently allows no billboard signage; this proposal would allow for digital billboard only, which are the current state of the art signs today, via special permit process of the Planning Board. His clients had previously submitted a sign application, which was denied, and a variance from ZBA was sought, but withdrawn subsequently. They are now attempting a Bylaw change and proposing an overlay district where the signs would be allowed, 100 ft wide on an approximate 3 mile stretch of Rt.24, from the Fall River line to the Assonet River Bridge. He stated that this is an ideal area for this type of signage, being a heavily traveled highway; he is aware that Towns have concerns and that this proposal affords protection so that the use doesn't adversely affect the Town, and will not open the door to a proliferation of signs.

He summarized the protections the bylaw affords the Town as follows:

- Provision for digital signs only; ordinary billboards which can become dilapidated and vandalized are not allowed
- State statutes are in place limiting the number of signs and the places they can be installed; must be located within 500 ft of (2) businesses, must be in zones where commercial activity is permitted, and must be 1000 ft away from any other billboard.
- Local Boards would not be the only regulating authority; subject to approval from the MA DOT Office of Outdoor Advertising, which has 15 different thresholds for approval of a sign.

He summarized by stating the provisions of the bylaw gives the Board control over the locations the signs can be placed, and rigorous review process for applicants. He states he recognizes that Towns have a tension between preserving character as well as generating revenues. He states allowing the signs within this small overlay district would have minimal impact and present benefits to the Town; similar Towns have permitted the signs (Sharon, W. Bridgewater, Walpole, Canton).

Peter McClary stated that MA became the 39th state to allow the digital billboards, which have been in use since 2013; he has assisted in crafting some Town bylaws regarding the signs. A main concern for his company is to ensure compliance with the Highway Beautification Act, or risk losing federal funds. He states that new regulations in MA, regarding placement and proximity ensure this effectively. Mr. McClary stated there are a number of benefits to allowing such billboards: communication tool for the community with the ability to post Amber Alerts and public service messages, as well as the provision in the bylaw to implement an impact agreement. He states that new refractive technology has been developed within the past 6 months that enables only those traveling on Rt 24 to see the pixels; the sign face would appear black to anyone looking at it from another location. Only the face of the sign is proposed to be lit; no animation is proposed, and messages will be changed no more frequent than every 10 seconds.

The Board discussed the state restrictions on the placement near businesses and highway ramps; Mark Rogers stated that much of the overlay area seemed to be unusable due to this. Atty. Pursley stated that via the special permit, the Board could retain control over placement; the Chairman countered that it would need to be defensible, and you need good reason to deny a special permit. Mr. McClary stated that some Towns have chosen to be more restrictive with their bylaws than the state regulations. The Board discussed that there should be language in the bylaw that gives the Board authority to promulgate rules and regulations relative to electronic billboards, (i.e. lighting study to be provided), and suggested that the proponents include this provision.

The Chairman stated that the Board needs recommend, or recommend with changes, or applicant can propose amendments through a presentation at Town Meeting themselves. He noted that the Overlay map shows Assonet Burial

¹ Petition for October 2016 Special Town Meeting, Permitting Electronic Billboards received on 9/13/16 submitted by Lynch & Lynch

Ground and the Freeman's Circle subdivision included. He stated the proponents may want another map that provides clarification to Town Meeting voters about the actual locations where the signs could potentially be allowed when considering the state regulations. Mr. Jose inquired on how bright the signs were; Mr. McClary stated that in all communities where there are located, they are lit below the threshold set by DOT. The Chairman asked if the refractive technology discussed is required within the bylaw; Mr. McClary stated that is an amendment that can be made.

Mr. Rogers asked who owns and manages the signs; Mr. McClary stated that their company is Massachusetts-based and they contract with the property owner for a period of 10 – 30 years. Mr. Velozo points out the bylaw allows the Board to limit the term of the special permit – he asked what would compel the billboard's removal in case the permit is revoked. Mr. McClary states that under state regulations, the state will revoke their permit if local approvals are lost. The Board discussed requiring a decommission bond, and potentially a maintenance bond, as a condition of approval; Mr. McClary stated that would be a reasonable condition on the permit. The Chairman reiterated that if wording in the bylaw states that the Board can create rules and regulations, that may be the place to make a requirement for these types of things. The Board discussed the frequency of screen change; Mr. McClary states that the state requires it to be no more than 10 second intervals. The Chairman stated that the Board could require it to be stricter. Atty. Pursley states that the proponents will be formulating a plan to recommend changes at Town Meeting. They will print to copies, and make adjustments in red ink. Motion to continue to 10/17/16 at Town Hall at 6PM: Mark Rogers; Second: Nicolas Velozo; motion carries. Debra Robbins rejoined the Board at 7:00 PM.

B. Review of Preliminary Subdivision Plan off of Bullock Rd "Ethan Estates"

Evan Watson of Prime Engineering, representing the applicants approached the Board. He states that at the last meeting, discussion revolved around the subdivision rules outlining road widths, intersections, etc. This Form B plan is not a full design; they went through the rules and submitted a letter² outlining waivers they anticipate asking for in the formal subdivision process. They outlined the following possible waivers:

- Waiver from Sec. III.C.2.r requirement for soil evaluation tests at each detention facility prior to Form C submission; they are asking to do this at a later time.
- Waiver from Sec. III.C.2.11 and IV.B.6.a. requiring depiction of each driveway location; these will most likely change while in development.
- Waiver from Sec. IV.B.2.a requirement for designing to secondary street standards; they would like to use minor streets and also use the following specifications, which will need waivers: Min. centerline radius 150ft; Min. clear site distance 200ft; Min. vertical curve length 100ft; Max. grade 9%.
- Waiver from Sec. IV.B.3.a road width; proponents are asking for a 30ft wide road inclusive of berms.
- Waiver from Sec. IV.B.5.c to install cape cod berm rather than granite curbing; the Chairman stated that this is waived often, but that granite curbing is required at catch basin headers.
- Waiver from Sec. IV.B.7. a & b, requirement to construct sidewalks.
- Waiver from Sec. IV.C.2.a.3 requirement to construct full size water main; no existing water line is close to this project to tie into.
- Waiver from Sec. IV.D.2.m.4.a., the proponents request constructing 10 ft wide gravel access road around detention basin, rather than the required 20.
- Waiver from Sec. IV.D.2.m.5 to construct 3:1 side slopes rather than required 6:1.
- Waiver from IV.D.2.m.6 requirement to put a 50 ft buffer around all sides of detention basin and gravel access road; they want to put the detention ponds up against the road and are requesting that reduced buffer be put along sides that are not adjacent to the road.
- Waiver from Sec. IV.D.2.o requiring min. 3 ft of cover over pipe.
- Waiver from Sec. IV.D.5 requiring all drain pipes be reinforced concrete with 3 ft of cover; requesting use of HDPE pipe.
- Waiver from Sec. IV.H.1 requiring street lights
- Waiver from Sec. IV.J requiring planting of street trees; proposal is to preserve existing trees; the Chairman stated this should be depicted on plans.

² Letter from Prime Engineering, Subject: Freetown Ethan Estates Waiver Requests, dated October 3, 2016.

The Chairman asked why the plan depicts 3 detention basins; Mr. Watson explained that it is designed that way to accommodate the slope of the site. The Chairman stated that a secondary road could be constructed; this plan now gives the Town 3 outlets and 3 detention ponds to maintain at the project's finish.

Abutter Joe McClain approached the Board stating that he is concerned about the swale running behind the homes on Algonquin Way; he states that as it is, yards get flooded. Mr. Watson stated that water will get picked up and drained back away. The wetlands out there have been flagged and Con Com will be out to see what other resource areas are around. Their goal is to fill in the area as to not cause increased overflow to folks downstream. The Chairman asked if they have given thought to a closed system in order to mitigate concerns. Mr. Watson stated that he has engineered hybrid systems, with pipe underneath a shallow swale, which lowers the water table; he would have to look at how much water flows on each property, but the flooding scenario cannot increase.

The Chairman read the section of M.G.L. relative to the approval of a preliminary plan; the Board has 45 from the date of submission to act, which would be October 15th in this case. Mr. Watson points out that there is no plan recording and no binding requirements carry over to the Form C approval; it offers some protection from zoning changes.

Motion to approve the conceptual Preliminary Plan with modifications as suggested, but not limited to, by the Board: Mark Rogers: Second: Nicolas Velozo; all in favor. The Chairman called a 5 minute recess.

C. Public Hearing for the Proposed Changes Reclassifying Parcels to Open Space and Recreation District

The Chairman opened the public hearing for the rezoning of a list of parcels to Open Space and Recreation Use (OSR). Motion to waive the reading of the public hearing notice: Mark Rogers; Second: Robert Jose; all in favor. The Chairman read a letter³ from the Cemetery Commission in support of cemetery parcels being reclassified as OSR. He explained that this effort was initiated by Con Com, which compiled a list of properties. Mike McCue, Con Com clerk approached the Board. He explained that the majority of the parcels are either Town or Commonwealth owned, the remained being private small cemetery lots. Mr. McCue had sent the private owners notice of the proposed change; the Board had received an email objection⁴ from the Nichols Cemetery heirs. The estate is currently being sorted out and they are opposed to any zoning change at this time. The Chairman made a recommendation to take the parcel off the list. Mr. McCue stated that this was the only objection received; letters had also been sent to the owners of Camp Welch and Cathedral Camp, to which no response was received. Mr. Velozo inquired as to if any homes were still remaining on Cathedral Camp land; Mr. McCue stated they had been carved out via ANR plan and there is no more residential element on the property. The Board discussed leaving out the parcels containing Memorial Park and the Elementary school, as the Building Committee is eyeing those properties for the expansion of Town buildings. The Chairman read into the record Town Counsel attorney Jonathan Silverstein's review⁵ of the proposal, which cautioned that private property owners could argue the re-zoning as a taking. Motion to recommend with the amendments as follows: Remove the School and Memorial Park parcels, Nichols Cemetery Parcel, and Map 244 lot 4; add in Map 245 lot 4: Mark Rogers; Second: Nicolas Velozo; all in favor.

D. Proposed modification to the drainage system at Ole Blue Way subdivision

Mark Rogers recused himself from the discussion. Nyles Zager of Zenith Consulting Engineers approached the Board. He had previously submitted a request to modify the overflow of the underground infiltration chambers. The approved plan requires connection to a downstream manhole in the center of Beech Bluff Rd. The proposal would route a pipe to an

³ Letter from Cemetery Commission to the Planning Board dated 10/3/16

⁴ Email received by Diane Greene 10/1/16 Subject: Oct. 4, 2016 Proposed Zoning By Law Amendments/Nichols Cemetery

⁵ Email received by J. Silverstein 9/28/16

existing catch basin in Beech Bluff. The modification was reviewed by Ryan Trahan of Environmental Partners Group, who submitted a letter⁶ stating the modification is sufficient for the proposed use. Motion to allow the applicant to continue with proposed change to the drainage: Nicolas Velozo; Second: Robert Jose; motion carries.

E. Conceptual subdivision of property located at 22 Burns Lane

Nyles Zager once again approached the Board, on behalf of the Denault family, land owners, to show the Board a preliminary conceptual sketch of a subdivision to the property. The Denaults currently enjoy an existing 24 ft wide right of way from Burns Lane. They want to improve the right of way in order to create 2 new lots in rear of adjoining property (Map 240, Lot 52). The land will have sufficient area; they are seeking to waive requirements for the roadway. Mr. Zager states that they can create a hammerhead turnaround. The Chairman asked Mr. Zager if he is asking the Board if they are amenable to a 24 ft road layout to service 2 additional lots, in a paved cul de sac style. Mr. Zager replied that he is; there are conservation issues and Zone A issues that also need to be overcome, and if the Board isn't amenable to the road layout, there is no sense in moving forward. Mr. Jose remarked that the parcels in question all belong to the same family. He inquired if the new lots were meant to stay within the family, or if they were to be split up and sold off. Mr. Denault replied they would stay within the family. Mr. Zager stated that is going to prepare drainage calculations, and will be utilizing low-impact development.

After some discussion, the Board stated their concerns dealt mainly with emergency personnel access. Mr. Zager stated that is order for those vehicle to get up the roadway, they need a passable surface 14 ft wide with 3 ft shoulders. He prefers the plan to showing paving 20 ft wide. The Board discussed further and the conclusion was that they are amenable to a plan requesting those waivers.

F. Lot Release and Road Completion for Alexandra Drive

Atty. Joe Dougherty approach the Board on behalf of Bob Viana for Alexandra Drive. He states that Mr. Viana has talked about the road with the highway surveyor. Mr. Viana approached a contractor to provide an estimate⁷ for the completion of the road paving. The total comes to \$48,598, and Mr. Viana needs to put \$10,000 to secure the job; he is seeking a release of his remaining 2 lots to help fund this. The Chairman stated that asphalt is definitely an issue on this project, among other issues. The last time a punchlist⁸ of outstanding items was produce by a review engineer was in 2007. The Chairman and Mr. Rogers recalled an extensive site visit in or around 2008; catch basins had been built in the wrong spots, making them tough to clean out; there were issues with headwall construction. The Chairman stated that while he doesn't want to withhold a lot from Mr. Viana, it has been many years since the last peer review; he stated that Mr. Viana should take a look at the last peer review on file with the Planning Board and inform his attorney of any subsequent work that has been done. Our peer reviewer will need to verify that work; Mr. Viana should send a deposit for the review account. Atty. Dougherty stated he will speak with his client.

G. Misc

Motion to pay the schedule of bills except for the \$560 charge for the ITE manual: Nicolas Velozo; Second: Robert Jose; all in favor. The Planning Technician was instructed to explore costs share with ZEO and Road Commissioners.

Meeting Adjourned at 8:45 PM

Submitted by: Lauren Moreau, Planning Technician

⁶ Letter from Ryan Trahan, Environmental Partners Group; RE: Engineering Review – Pipe Modification for Ole Blue Way; dated 9/26/16

⁷ Proposal/Contract from All States Asphalt, Inc to Robert Viana, submitted to the Planning Board on 9/27/16

⁸ Letter dated 11/28/07 from Field Engineering to Planning Board; Subject: Alexandra Court Subdivision As Built Plan Review/Field Observation Memorandum