**Minutes of the Town of Lee Planning Board**

**February 26th, 2024**

**6:00 pm Lee Town Hall Courtroom**

**Present**: Buck Donovan (Chairperson), David Forrest, Conrad Decker, Peter Bluhm (via Zoom), Peg Biron (via Zoom, 6:15), Daniel Blaisdell (alternate).

Select Board Member Gordon Bailey, Select Board Member Sean Regnier, Building Commissioner Matt Kollmer, Town Administrator Chris Brittain, Resident Kathy Hall, Resident Timothy LePrevost, and Keith Bell were also in attendance.

**Call to Order**: Meeting was called to order, and a quorum was declared at 6:05pm on February 26th, 2024, by Chairperson Buck Donovan.

**Minutes:** D. Forrest moved to accept the minutes from February 12th as written. C. Decker seconded. The motion passed unanimously (5-0).

**Public Comment:** Resident Hall announced that there will be no more ice skating on the rink. She also mentioned that there will be early voting occurring next week in the Town Hall, and that the Outdoor Space and Recreation Plan (OSRP) draft is on the town’s website.

**Master Plan:** P. Bluhm announced that a virtual draft of the complete plan has been received by the committee from the consultants. The committee will vote to approve this draft on Thursday. There will be a public hearing on March 30th at LMHS, at 1pm, where drafts will be available by copies and as soon as the committee approves and final edits are made it will be posted to the website.

**ADU Bylaw Discussion:** Chairperson Donovan recused himself from the discussion and C. Decker took chair. There was brief discussion for the inadvertent restriction that was created by the wording of the bylaw. This proposal would allow for the renting of the attached ADU as a short-term rental, and a short-term rental of the main house would not be allowed. C. Decker asked for M. Kollmer’s opinion.

P. Bluhm made a motion to accept. DF seconded. Motion passed unanimously (5-0).

P. Bluhm made a motion to set a public hearing for the second meeting in March. D. Blaisdell seconded. Motion passes unanimously (5-0).

C. Brittain moved a point of information, and said that we have not yet received approval from the Massachusetts Attorney General for the bylaw that we submitted in December.

**50 West Center Street – Special Permit Hearing:** Chairperson Donovan retook chair and opened the special permit hearing at 6:23pm. Keith Belly, perspective buyer, was present the application to re-establish a pre-existing, non-conforming structure. Schematics were present, but the applicant was not before the board for a site plan review. K. Bell said he hopes to purchase the property to open up a Dominos restaurant. He said that they are not fast food, and are interested in using the existing drive-up window on the property for a pick-up window. Customers would need to order the pizza before arriving at the restaurant.

P. Bluhm asked for clarification of why the applicant was applying for a permit. B. Donovan, C. Decker and D. Forrest explained because it has been more than 10 years since the previous fast-food establishment was present, and in order to utilize the window as a pickup window that the property would need to be re-established as a pre-existing non-conforming structure due to zoning regulations in the DCBC zone.

SBM Bailey made a public comment, saying that he was in favor of the project as long as there is no possibility of ordering and picking up the order at the restaurant. He mentioned other restaurant locations in town where there is pickup availability. He said that he would be in favor of re-establishing, with a condition that there would be no microphone or ordering abilities on the site.

D. Forrest said that he would be happy to have the building in use.

C. Decker said that food service/restaurant is a by right in that zone because they do not serve fast food, and they are a restaurant.

P. Biron asked if any neighbors were present that had concerns. Otherwise, she was good with the application.

P. Bluhm said that he was cautious of the project, and wanted more details, such as maps, a site plan, etc. He also asked if it was fast food. B. Donovan responded that the applicant is not fast food. C. Decker agreed and added that it is a restaurant. P. Bluhm asked B. Donovan what he thought fast food meant. B. Donovan said that if the applicant considers themselves to be a restaurant, then they are not a fast-food establishment. C. Decker said that when food is made to order, not heated or pre-made, it is not fast food. K. Bell said that each pizza is made to order, and built custom. There is brief discussion regarding the definition of fast food. C. Decker said that in the DCBC district that a restaurant is allowed by right in that zone however, fast-food was not. In the zoning bylaw under definitions, a fast-food restaurant was defined as an establishment whose principal business is the sale of pre-prepared or rapidly prepared food in a ready to consume state for consumption within the building or off premises. Because Domino’s products are custom made to order, they do not serve fast-food and therefore would be considered a by right restaurant.

SBM Bailey said that there is no difference between a Dominos and other restaurants in town, such as 51 Park Street or the Locker Room. The applicant does not need two different special permits, only a site plan review.

Resident Tim Leprevost said that it would be great for the town. Especially after COVID, many people would like an option of a pickup restaurant. Also, it would revitalize that side of town, and be a great place for a pizzeria.

D. Forrest made a motion to re-establish a pre-existing, non-conforming structure. C. Decker seconded. P. Biron said that she is in favor. P. Bluhm said that he needed more information, especially site plans. He said that he was not in favor. Resident Hall made a public comment, saying that a pizzeria is not fast food, and said “Please, let’s let business in”. B. Donovan called for a vote. Motion passed unanimously (5-0). They will come before the board again next month for a minor site plan review.

**Marijuana Bylaw – Public Hearing:** SBM Bailey was present to discuss the suggested changes of the Marijuana Bylaw. There was brief discussion between SBM Bailey and the board.

P. Bluhm asked for clarification of the host community agreement (HCA). TA C. Brittain clarified the HCA, the role of the Cannabis Control Commission (CCC).

D. Forrest asked what gets accomplished if the number of licenses are limited, and how this would fix the 102 odor problem.

SBM Bailey gave a brief overview of his suggested changes.

B. Donovan asked about unduly restricting.

SBM Bailey will give his suggested amendments to the board within a week.

P. Bluhm asked for clarification regarding noxious/toxic fumes/opinions of enforcement. P. Bluhm request counsel’s opinion.

Chairperson Donovan requested SBM Bailey to get counsel’s opinion. The discussion will continue at our next meeting, on March 11th.

**CPA Update:** P. Biron said that there will be no report until the committee meets again.

**Adjourn:** D. Forrest made a motion to adjourn. Motion passed unanimously. Chairperson Donovan declared the meeting adjourned at 7:25pm.