

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, AUGUST 5, 2008, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

MEMBERS PRESENT: Tony Calcagni (Chair), Bill Lunt (Vice-Chair), Bernard Pender, David Fenderson, Jay Moody (Associate)

ABSENT: Hugh Coxe, Stan Bennett (Associate)

STAFF PRESENT: Ethan Croce (Assistant Planner)

The meeting was called to order at 6:32 pm.

Jay Moody was designated as a voting member for the meeting.

1. Approval of July Meeting minutes

Bill Lunt moved to approve the July minutes, Jay Moody seconded. Minutes passed 3-0 (Pender, Fenderson abstained).

Administrative Items:

2. B & G Ventures, LLC – West Falmouth Crossing – Request for approval of a 42 square foot wall sign for Snap Fitness 24-7. Tax Sheet 373; Map-Lot R05-044-001; zoned West Falmouth Crossing Master Planned Development District.

3. Fairway Villas, LLC – 1 Cypress Lane - Request for subdivision amendment to the Woodlands Subdivision and the Villas at the Woodlands Subdivision to modify the Pinewood Lane right of way. Tax Sheet 300; Map Lot U67-098-118. Zoned MUC.

Bill Lunt moved to approve the administrative items; Bernie Pender seconded. Motion passed 5-0.

Agenda Items:

4. (Item Tabled) Cloutier Construction – Request for pre-application sketch plan review for a four lot conservation subdivision off Longwoods Road. Tax Sheet 060; Map Lot R03-054-004, -005, -006, -007. Zoned Farm and Forest and RCZO.

5. Morong Falmouth – 187 U.S. Route 1 - Request for a site plan amendment for renovations to the existing car dealership. Tax Sheet 320; Map Lot U07-004-B1. Zoned SB1 and Village Center Overlay.

Ethan presented the threshold and key issues. He explained that waiver requests are treated as threshold issues, and there are five of them in all:

The first waiver concerns Section 9.10.c, which does not allow parking within 20 feet of the Route One front setback. If the board grants this waiver, they should be clear how far they are willing to waive it down.

The second waiver request concerns section 9.14.b, which requires driveways and curb cuts in the SB1 District to be eliminated or consolidated wherever possible. The Ordinance also requires that all curb cuts be located at least 200 feet away from curb cuts on the same lot or on adjoining premises. There are currently two existing curb cuts on the property separated by a distance of only 195 feet. Additionally, the distance between Morong's southerly curb cut and the northerly curb cut on the adjacent Performance Motors site appears to be a little less than 100 feet; that would require a waiver as well.

The third waiver requested concerns section 9.24.b(5)'s requirement of berms three to four feet in height to screen motor vehicles from public view. The applicant is requesting a waiver from this standard to allow for shorter berms of one to two feet in height to provide greater visibility of their vehicle display.

The fourth waiver requested is from Section 9.26, which requires a certain number of canopy and evergreen trees within the Route One setback for commercial properties in the SB1 District. The applicant would like to forgo installing any canopy or evergreen trees in the 20 foot front setback to avoid utility conflicts and to maintain maximum visibility for their vehicle inventory. The town's peer reviewer, Tom Emery, has recommended a few minor landscaping alterations to provide seasonal interest.

The fifth waiver request concerns section 9.28.a, which requires certain ratios of landscaping to be provided for every 24 parking spaces within surface parking lots. The applicant is requesting that no parking lot landscaping at all be required to allow the applicant to continue maximizing the parking lot for vehicle display.

Additionally, while not technically a waiver, the Planning Board should officially indicate whether it is amenable to granting a reduction in the minimum-required 80-foot front setback to accommodate the newly proposed Volkswagen entry portal, which will protrude into the minimum 80-foot front setback.

Bernie Pender commented that these waiver requests were discussed in June. He wanted to identify which waivers the Board wanted to look at in depth, and which are things they couldn't move on, or didn't think were a big deal.

Regarding the first waiver, Bill Lunt doesn't think this classifies as parking, it is vehicle display, so he was unsure it really needed a waiver, but if the Board needs it to be a waiver he would support it. Bernie Pender agreed with Bill Lunt. He said it is an advertisement, not really parking as defined. There are a certain number of parking spaces for customers, and employee parking out back, and he felt they don't need landscaping for employee parking.

Tony Calcagni thought it was a stretch to say it isn't parking; he thought the setback applies, so a waiver is necessary. He asked if they are proposing to stay 10 feet away from the front property line. Jeff Perry of Sebago Technics, representing the applicants, said yes.

Tony Calcagni asked if they can put that on the plan. He thought if the Board waived it down to 10 feet, it should be on the plan.

Jay Moody agreed; he wanted to be sure the applicant is comfortable with a waiver down to 10 feet. Mr. Perry said they are not proposing any more parking in those 10 feet; they are actually taking some away.

Tony Calcagni clarified that all the parking that is left is 10 feet from the property line.

Mr. Perry said yes.

Tony Calcagni asked the Board about the second waiver request, regarding the curb cuts. Bill Lunt was in favor of the waiver – these are existing curb cuts and have been there and worked well for quite some time.

The Board was in agreement with Bill Lunt.

Tony Calcagni asked the Board about the third waiver request, regarding berms.

Jay Moody thought this ordinance requirement was not intended for a motor vehicle sales lot, and to ask them to install a berm was a little ridiculous.

Bill Lunt felt that the purpose of the berm was to break up the huge open flat space, but due to the closeness of the building to the road, lowering the berm would not create a huge open flat space. He was willing to grant the waiver.

Tony Calcagni moved on to the fourth waiver request, regarding the specified number of evergreen and canopy trees in the setback. In his report, Tom Emery recommended a certain number of evergreens for seasonal interest, and also recommended adding more understory trees to compensate for the lack of canopy trees.

Mr. Perry explained that canopy trees would conflict with the utilities. They tried to compensate with shrubs. With the evergreens, it is a conflict; a deciduous tree allows more space to see into the site. They added five evergreen trees in the back near the new proposed vehicle display to frame that area, but to bring the trees forward runs counter to the goal of maintaining visibility into the site. As far as adding more understory trees in the front setback, he felt they could accommodate that. Tony Calcagni thought Tom Emery's request was a reasonable one. He was not asking for huge evergreens, but it would make the place look nice in the winter.

Bill Lunt asked the applicant to explain the shrub issue. According to this plan they will have about twice what is required.

Mr. Perry said that most of that is already there now. Some of it needs to be replaced – either it has outlived its life, or has suffered salt damage.

Bill Lunt asked for a quick overview of shrubs that would look good all 12 months.

Mr. Perry said that most of the shrubs are low-growing junipers, many of which are planted on the berms. They are almost 100% evergreen in that area.

Bill Lunt asked where the two evergreens listed on the landscape plan are located now.

Mr. Perry indicated on the diagram where the evergreens are on the plan. There are actually three taller evergreens in the back, and smaller evergreens in the front. That is outside the 20 foot buffer.

Bill Lunt asked if, in Mr. Emery's recommendation of 4 evergreens, there was a location suggested. Ethan Croce said no, but the Ordinance requires a certain number be located within the setback.

Bill Lunt asked for clarification; did Mr. Emery suggest that they be in the front.

Ethan Croce explained that this is a specific ordinance requirement. There is a requirement for a certain amount of landscaping in the 20 foot setback. They are providing some evergreens beyond the 20 feet, so the waiver request in this instance would be applicable to the requirements for the trees to be located in the 20 foot setback.

Bill Lunt observed that the 20 foot setback applies to the whole property front, not just right in front of the building.

Tony Calcagni said he would like to see them conform to the peer reviewer's suggestion regarding the evergreens in the 20 foot setback.

Mr. Perry said that he will add the 3 understory trees, and asked if they are still looking for 3 evergreens.

Tony Calcagni asked if Mr. Emery was suggesting the 3 understory trees be evergreen, to compensate for the canopy trees.

Ethan Croce said he believed so.

Bernie Pender thought that they could come a little closer to Mr. Emery's suggestions.

Mr. Perry said that typically an understory tree is a deciduous tree. In terms of additional plantings, he asked if the Board is looking for 3 additional evergreen trees, or 3 understory trees.

Tony Calcagni clarified that they were looking for 3 evergreen understory trees. He asked if the peer reviewer wanted more understory trees or evergreen shrubs.

Ethan Croce said he thought it was an either/or suggestion.

Tony Calcagni was happy to go along with what the peer reviewer suggests. He thought that, since Mr. Emery will be reviewing the amended landscape plan, he was inclined to defer to him.

Bill Lunt had to leave the meeting due to a conflicting commitment.

Tony Calcagni moved to the fifth waiver request, regarding the landscaping required based on the number of parking spaces. He asked if the peer reviewer was okay with the applicant not conforming with this as long as the front setback was okay.

Ethan Croce said that Mr. Emery did not specifically address this issue, but made a general comment that the applicant should suggest alternatives to the landscaping requirements in those instances where they are proposing to not conform.

Tony Calcagni asked the applicants to point out what they have done in this area.

Mr. Perry said they have put as much landscaping in the front as possible. What this requirement would impact would be inventory storage in the sides and back, as well as the front of the site. This is a tight site, and that requirement would make it even tighter. From the edge of pavement to the property line, there isn't a lot of room. There is a fair amount of native landscaping that provides buffering between the two adjacent properties.

David Fenderson observed that they added 3 trees to the north side.

Mr. Perry said that was correct.

Bernie Pender said it is a very tight spot to put landscaping in – he asked how they would provide for traffic flow.

Mr. Perry said that it wouldn't block traffic flow. There are probably spaces for 40 cars along the north property line. To meet this requirement, at every 20 spaces they would have to create a landscaped island. Where cars are double and triple stacked, it would impact how the business operates. He reiterated that this is vehicle display and storage; these cars are stationary for the most part. This does not function like a conventional retail parking lot.

David Fenderson asked if most of the employee parking is across the street.

Mr. Perry said that there is some employee parking behind the building in the rear lot.

Jay Moody asked if, with the existing vegetation, they already comply with this requirement.

Mr. Perry explained that the existing vegetation doesn't count toward this. This requirement states that, for every 24 spaces, you create a landscaped island.

Tony Calcagni didn't agree that, since it isn't a retail parking lot, it doesn't apply. The idea is to get a little green mixed in with the cars. He did agree that they are working with a tight spot.

Jay Moody suggested a compromise where the number of actual parking spots is tabulated and then work from there. He thought it was unfair to apply this requirement to a facility with 100-200 unsold vehicles that are just sitting there. The function of this site is not typical of what the ordinance was designed for.

Tony Calcagni moved to the request for a reduction of the 80 foot setback requirement to allow for the new Volkswagen entry. He asked how much of a waiver they need.

Mr. Perry said about 6 feet.

David Richards, the applicants' architect, asked if they could say 10 feet.

Tony Calcagni restated that they are suggesting waiving it from 80 feet to 70 feet.

The Board agreed to this request. Tony Calcagni asked that it be put on the plans.

Ethan Croce explained the landscaping issues. The applicant should produce a revised landscaping plan that shows the existing and the proposed landscaping on a consolidated plan. Site plans in commercial districts are required to have a 45 foot buffer between the commercial use and the abutting residential zone. The Board indicated in June that they were amenable to limiting that requirement to only the rear parking lot, and not against the boundary shared with the park in the front parking lot. In the absence of any guidance from the Ordinance, the Board should indicate what type of buffer treatment should be applied in this area. One idea would be to keep the area in its natural vegetated state with a no-cut buffer applied. In this event, the applicant should clarify what the current level of vegetation is in this area. Alternatively, the Board could require a supplemental type of buffering treatment if it feels that the existing buffering is not sufficient. Regarding the foundation plantings required around the foot of the building, Tom Emery did suggest some landscape wells be added where feasible, with special consideration given to locations around the building entrances.

Tony Calcagni asked if the applicants could provide a revised landscape plan; Mr. Perry said yes.

David Fenderson explained that it would be a condition of approval.

Tony Calcagni observed that the 45 foot buffer in the back was indicated on the 2001 site plan for this site. It seems to have been reduced down to 40 feet on the proposed plan and he wondered why. Mr. Perry said the extent of the buffer has not been located on the ground. If there are places where it is 40 feet and should be 45 feet, they can go and measure on the ground and make sure they come in under today's standards.

Tony Calcagni asked about the nature of the vegetation back there.

Mr. Perry said it is very dense back there. In summertime conditions you can't even see 15 feet in. He said they couldn't complement it with anything else.

Tony Calcagni said he had no problem sticking with natural vegetation, but he would like to see the 45 foot buffer shown since that is what the old plan said and that is the requirement.

Ethan Croce confirmed that the former plan did say 45 feet in the back.

Tony Calcagni asked about the issue of providing foundation plantings.

Mr. Perry explained that the way in which the vehicles are displayed creates a sidewalk. There is a walking space behind them, but there is not a lot of room there, and it would become difficult to walk if plantings were installed. With the sloped roof, all the water would pour down into the wells, which would also create a problem. He thought they could accommodate it in a few places, but a conventional layout of a five foot planting strip with a five foot sidewalk would compromise the site.

Tony Calcagni discussed the Village Center Design guideline that recommends 20 feet of landscaping per parking space and 20 feet of landscaping between the building and the edge of pavement. He thought he was willing to go along with some waiver requests if the applicants are willing to go along with some of the peer reviewer's comments.

Mr. Perry said they have an opportunity for more landscaping around the benches.

Bernie Pender said he wanted to see some more landscaping on the front of the building.

Mr. Perry said they will try to work that in.

David Fenderson observed that it didn't make sense to have landscaping behind cars. He thought it made sense to have it at the entrances where people can see it.

Ethan Croce discussed the provision of the guidelines that outdoor spaces be incorporated into sites. The applicants have provided two outdoor benches and staff recommends providing some landscaping, such as a pergola, trellis, or planters around the benches to add some definition to the space and help soften its appearance in a location surrounded by parking.

Mr. Perry was okay with doing that. He indicated the placement of the benches on the plan.

David Fenderson asked about the yellow square on the plan. He wondered if that will that be elevated vehicle display.

Mr. Perry said no, it is to offset the loss of parking in the 20 foot setback area. It is an at-grade display area.

Tony Calcagni raised the staff recommendation for a condition of approval mandating the applicant to replace any landscaping displaced in the Route One right of way as a result of future road improvements. He was in favor of that proposed condition, and Mr. Perry didn't object.

Ethan Croce discussed the key issues. The first issue regards a sidewalk extension on the southerly side of the building being brought in front of the 5 proposed customer parking spaces. Staff has suggested that the sidewalk could be at a lower elevation with a mountable curb to allow the property owner to drive cars over the sidewalk if needed, to allow access for vehicle display. The second key issue concerns signage. There are currently three freestanding signs on the site and the ordinance only allows two freestanding signs. The smaller Audi/Volkswagen sign seems duplicative of the more northerly sign. This is not a waivable standard. Also there is a question about the illumination of the wall signs, and whether they will be internally illuminated. If so, only the lettering should be illuminated and not the entire sign panel unless the panel is opaque or a dark background.

Mr. Bill Sowles, owner, explained that the sign on the building across the street is internally illuminated with a dark background, and this would be exactly the same.

Ethan Croce raised the issue of the lighting plan; the ordinance requires an average of 1.5 footcandles for parking areas and the applicant's average is 3.17 footcandles across the site. The applicants feel that they should not have to meet this requirement due to it being vehicle display. They are moving further into conformance by replacing all of the wall packs and lowering the levels of the freestanding lights along Route One.

David Fenderson asked if this level of lighting is due to security.

Mr. Richards said yes, security cameras do not work well in low light situations.

Mr. Perry said there are no poles in the back, so the light level drops dramatically as you enter the site. The national lighting standards for vehicle display are upwards of 15-25 footcandles. 3 footcandles is not a huge increase over 1.5 footcandles.

Tony Calcagni asked if this is an increase or decrease from what is out there.

Mr. Perry thought it is less than what is out there. The current poles are 25 feet high.

Ethan Croce moved to the minimum parking requirement - the ordinance doesn't list any specific standards for parking for this use so the Planning Board is responsible for determining what the minimum standard should be for employee and customer parking. Regarding the proposed fire lane shown on the plan, there needs to be clarification that it will not be used for vehicle display or

otherwise blocked. Also, if it will be used for traffic circulation consideration should be given to limiting it to one-way traffic and providing signage to that effect. Finally, the chain link fence in the back of the site is shown on the 2001 approved site plan with a note that it is to be removed. The applicant should clarify what the status of the fence is and whether it has been removed.

Mr. Sowles looked over a copy of the approved 2001 site plan. He said the fence has not been removed. He didn't realize the note was on the plan back then, and he would not have agreed to it if he had. The fence surrounds a gravel parking lot that is used for storage, and the fence prevents people from wandering around that lot and taking things off the cars.

Tony Calcagni observed that this portion of the parking area is locked, and wondered about the other portion of the back parking lot and whether that was employee parking.

Mr. Sowles confirmed that since most of the employees are across the street it is vacant.

Tony Calcagni asked if the removal of the fence was listed as a condition of approval in 2001.

Ethan Croce said it was not, it was represented as a plan note.

Tony Calcagni asked if the applicant wanted to keep the fence.

Mr. Sowles said yes, it is a functioning chain link fence.

Tony Calcagni asked if there was any ordinance provision that might require it to be removed.

Ethan Croce said not in the Ordinance, but there may be something in the Design Guidelines that discourages chain link.

Tony Calcagni didn't think the fence would be visible from anywhere anyway.

The Board was okay with leaving the fence where it is.

Mr. Perry agreed to remove the third freestanding sign. He also agreed to extend the concrete sidewalk to delineate the customer parking. With respect to the fire lane, they will coordinate that with signage as to one-way circulation and no parking. There will be full, 12 inch wide white lines indicating no parking, and they will add signage to that effect. Regarding the lighting – the ordinance does not address display and vehicle storage. The 3.17 fc is higher than the 1.5 fc, but it is not an order of magnitude that most people will notice. They have worked hard to accommodate the ordinance as best they can, within the constraints of the site.

Tony Calcagni asked about the six customer parking spaces; he wondered if there is a sign indicating that they are for customers.

Mr. Perry said that they could add a sign to that effect. He agreed to add the sidewalk to make it clear that it is customer parking. There are always adequate spaces around the sides and rear too.

Tony Calcagni asked the Board if they were comfortable with the six parking spaces for customers. He felt comfortable with it, with a sign installed.

Bernie Pender asked how many employee spots they will keep on the back of the lot.

Mr. Sowles said there are probably 100 spaces in the back lot.

Mr. Perry said the back lot is freed up with the move of the service department across the street.

David Fenderson asked if they have any plans to extend the chain link fence in the back lot.

Mr. Sowles said no.

Tony Calcagni asked the Board how they felt about the 3.17 footcandle average.

Jay Moody said the 3.17 average over the site didn't tell him what the lighting would be over the 30 cars right along Route One.

Mr. Perry explained that the photometric plan gives it by a 10 foot grid. There are some hot spots.

Jay Moody would be concerned if it would be abnormally bright along this site, which they have worked hard to keep at a safe level along the whole of Route One. He asked if the photometric plan in the packet was the current or proposed plan.

Mr. Perry said it was the proposed plan.

Jay Moody observed that there are hotspots here; there are three locations with super bright lights, at the two entrances and at the center of the building. He thought it should be more even. He thought 30 footcandles and 33 footcandles is way out of line right along Route One.

Mr. Perry said that he has gone back to the vendor for a more even plan. It made sense to come back with a more uniform lighting plan for staff and Tom Emery to review.

Bernie Pender wondered if it was so skewed because the back is all 0's. There is no lighting back there, and they shouldn't include that in the average.

Mr. Perry said that it is all wall packs back there. There are poles out front, wall packs around the sides of the building, and no lights in the back lot.

Tony Calcagni wanted it confirmed that they haven't used the back lot to determine the average.

Mr. Perry confirmed that the average is based on the lighting included in the photometric plan only.

Tony Calcagni asked if the poles on the lighting plan are existing and are being reduced to 20 feet.

Mr. Perry said no, those are all new poles.

Tony Calcagni asked if all the current poles are coming down, and Mr. Richards said yes.

Tony Calcagni asked if this could be a condition of approval.

Ethan Croce said it is up to the Board's discretion. There is no specific provision dealing with hot spots, and staff is happy to work with the peer reviewer on trying to get a better uniformity.

Tony Calcagni asked if Mr. Emery had any comments on the lighting.

Ethan Croce said Mr. Emery did not formally comment on the issue in his peer review, but he discussed his concern with the 1,000 watt bulbs in a conversation.

Jay Moody was not sure he was comfortable with a condition of approval. He had two issues: first he wanted more uniformity across the site and secondly he wanted to see conformity with the neighbors. He didn't want a super bright daytime effect in the middle of sites that have conformed to the 1.5 average.

Tony Calcagni suggested the application be tabled, and the applicants come back with a revised lighting plan for an administrative approval. He asked if the applicants were agreeable to that.

Mr. Perry said they were.

Public comment period opened – no public comment.

Bernie Pender asked for discussion about the color of the roof.

Tony Calcagni wanted to discuss the Volkswagen color banding as well.

Mr. Richards explained that the banding is more muted than what was shown in the plans provided last time. There was a printing issue last time with the plotter which caused it to be represented as too bright. He discussed Tom Emery's general design comments. Mr. Emery said that given the high quality of the existing metal roofing and the design changes to the existing building the roof color does not need to be changed.

Jay Moody asked for clarification that the current roof and color will stay.

Mr. Richards said that is the intention. The roof will be broken up by the central element being added.

Tony Calcagni asked about the facades and how they relate to the roofline.

Mr. Richards explained the relation between the building elements and the roofline. The fascia sticks out about two feet, the portal will stick out about six feet so they are not trying to flash around the curve.

Tony Calcagni asked him to talk about the roof.

Mr. Richards explained that it is a Kynar roof, which is a very slippery substance. There is a special process by which color is applied. It keeps so long because it is so slippery, so smooth, but to get paint to stick to it is very difficult. It needs special primers and special treatment.

Tony Calcagni was surprised that Mr. Emery was okay with the color.

Mr. Richards thought it had something to do with the history of it, where the owners came to the Town and the Town Planner and the Planning Board approved the color.

Tony Calcagni didn't think that this is what is currently what the Guidelines have in mind. Blue would not be allowed on a new building. If this Board does approve this color, he didn't want it to become a precedent.

David Fenderson observed that there are other buildings in the area with blue.

Tony Calcagni thought that, presumably, those were approved before the Guidelines went into effect.

David Fenderson thought that it argues for at least limited continuity.

Jay Moody agreed with Tom Emery's review that the applicants have done a nice job adhering with his recommendations. He had no problem with the roof color.

Tony Calcagni asked for discussion regarding the color banding.

Mr. Richards said that the manufacturer provides different versions of the yellow in the branding, and they chose the lightest one available. The photos shown at the last meeting were brighter than what was planned due to a printer problem. He has spoken at length with the peer reviewer who is alright with the color.

Ethan Croce confirmed Mr. Richard's statements.

Ethan Croce summarized the proposed conditions of approval. He asked if the Board is considering having the applicant come back for administrative approval next month.

Tony Calcagni asked if he had any other suggestions for conditions, other than the lighting.

Ethan Croce thought that he would suggest a note detailing the 70 foot front setback, the 10-foot parking setback, and a note saying that the 6 parking spaces for customers were sufficient. They might want to designate a certain number of parking spaces in the back lot for employee parking to allow flexibility for the remaining area not designated for customer parking. He recommends notes on the plan detailing all the waivers granted.

Tony Calcagni asked about adding the requirement that the third sign be removed.

Ethan Croce said it could be either a condition or staff could work with the applicant on that.

Mr. Sowles requested that it be added as a condition for clarity for his manufacturers.

Bernie Pender asked about the chain link fence.

Ethan Croce explained that, if it is shown as remaining on the current plan, it would supersede the 2001 plan.

David Fenderson asked about the sidewalk.

Ethan Croce said that they could have a general condition that refers to the changes discussed by the Board and that they should be incorporated on the final plans, without having a specific condition on each item.

After some discussion with Mr. Sowles it was determined that the 6 customer spaces should be marked with a sign and they shall reserve 20 spaces, without a specific location designated, behind

the building for employee parking. The 6 customer spaces will be marked on the plan, and a note designating 20 employee spaces will be added to the plan.

The Board also added a condition 2(d) which mandated the removal of the third freestanding sign.

Tony Calcagni returned to the issue of the lighting plan. He explained that the Board wants to see a plan, showing more consistent lighting across the site. The Board seemed to be comfortable with the 3.17 average, but not the hot spots versus dark areas in the current plan.

Jay Moody said he didn't know what a 3.17 average would look like.

David Fenderson thought that if you went down Route One there would be a lack of continuity of lighting among the sites. He thought they should measure the applicant's site against the similar sites in the area.

Jay Moody would like to have uniform lighting across the front of the site, which would conform to the neighbors and the site across the street.

The Board debated the best way to treat the issues with the lighting plan. Several options were listed including: tabling the item until a new lighting plan was submitted, and then placing the application on the administrative item list for final approval as long as the lighting was the only change submitted; approving the application tonight with a condition that mandates the applicant return to the Planning Board for approval of a new lighting plan; or approving the application with a condition that a revised lighting plan be approved by the peer reviewer.

Jay Moody wanted to see some kind of comparison with the lighting on other sites along Route One. Mr. Perry said he could provide the photometric plan from the service center, and could also locate the one for Wal-Mart. The Board was satisfied with that.

The Board added a condition 5 which mandated that the applicant come back before the Board with a revised lighting plan, reviewed by the peer reviewer.

Jay Moody moved to approve the site plan amendment with the conditions of approval as discussed, including #2(d) the removal of the third sign, and #5 a revised lighting plan to come back before the Board; David Fenderson seconded.

Motion passed 4-0.

Bill Lunt returned to the meeting.

Workshop Items:

6. Workshop discussion regarding transfer of statutorily-required public hearings pertaining to zoning ordinance amendments from CPAC to the Planning Board.

Ethan discussed the State statute which currently requires that all amendments to zoning ordinances or maps receive a public hearing by the "municipal reviewing authority". The statute further defines "Municipal reviewing authority" as "the municipal planning board, agency or office, or if none, the municipal officers". By virtue of a Council Order on 10/26/1998, the Town designated CPAC as its municipal reviewing authority. With the re-naming of CPAC to LPAC, and the re-examining of that committee's charge, there is now some interest on the part of some councilors to have the Planning

Board assume these statutorily-required public hearing responsibilities. The intent of this discussion tonight is to solicit Board members' opinions about assuming the role of conducting these public hearings. If the Planning Board is amenable to conducting the hearings, Board members might want to discuss when the public hearings should be held in relation to the starting time of regular Planning Board meetings. One of the potential difficulties in scheduling these public hearings will be that there is never any way of knowing how much public comment will be received at any given public hearing.

Bill Lunt asked if these are only land use ordinances.

Ethan Croce explained that they are just zoning ordinance amendments, not even subdivision ordinance amendments are included.

Jay Moody asked if these were just town-level ordinance changes, and not state-level.

Ethan Croce said that was correct.

Jay Moody asked how often these happen.

Ethan Croce said it varies. There were four in 2007, six in 2006, five in 2005, and two in 2004.

Jay Moody thought it would probably be very infrequent that large scale items would cause a large public hearing.

Tony Calcagni's opinion was that a majority of municipalities do this, where the Planning Board reviews the amendments with a public hearing and makes a recommendation to the council. It made sense to him to have the Planning Board have these hearings. His suggestion was to not move the start time of the meeting earlier, but to keep the administrative items first, and then treat the public hearing as the first regular agenda item.

Bill Lunt thought if they do this it would be important for the Chair to keep this as a public hearing only, and not a debate between the Board and members and the public. He thought the Board is supposed to take the input from the public, deliberate it later, and then draft their recommendations to the council. This doesn't include the Board initiating the new amendment, somebody else will put the structure out there, and turn it over to them. The Planning Board would then hold the public hearing, take the input, and then go on with the regular meeting.

Tony Calcagni said that, in his experience, the Board holds the public hearing, closes the hearing, and then discusses its recommendation and any amendments proposed and sends it to the Council. Jay Moody agreed with Tony Calcagni. If it would be a lengthy thing, he thought the Board could table it, or move its deliberation to the end of the meeting in consideration of the paid consultants.

Bernie Pender thought it should be separate from the regular meeting, and that there should be a time limit on testimony per person, which could be extended for a speaker if the Board voted to do so. Jay Moody thought there might already be a time limit.

David Fenderson asked how much deliberation CPAC had been doing on this.

Ethan Croce said that CPAC was reviewing and sometimes developing amendments, but the public hearing was opened, closed, and then there was typically little deliberation.

Tony Calcagni asked if the LPAC will still be developing ordinance amendments.

Ethan Croce said that the current process in that regard would stay the same.

David Fenderson liked Tony Calcagni's recommendation of the placement of the public hearing in the first slot of the regular agenda.

Tony Calcagni thought it was common for people to review the agenda before the meeting, and be aware that there was a potentially long item in front of them. He was in favor of keeping the administrative items first, to clear out the easy items.

Bill Lunt thought it was difficult to sit and listen to a long public comment and then draft their recommendations at that same time. He thought it would create the image that the public input didn't mean anything.

Ethan Croce thought that the willingness on the part of the Board to hold the hearings and the need to draft formal feedback to the Council were separate issues. He said, notwithstanding the merits of providing feedback, there was no indication from the Council that they were going to request a formal recommendation from the Planning Board.

Bill Lunt asked why they should bother to have the public hearing if they aren't going to make a recommendation.

David Fenderson thought that since it was such an important issue, maybe they should have a separate hearing.

Tony Calcagni thought the hearings were not usually contentious – usually they are just clean up items. They could always take the public comment, and then table the formal recommendation until the following month. They wouldn't have to take public comment again – the hearing would already have taken place.

Bill Lunt asked if the public would have the right to react to any amendment the Board made.

Tony Calcagni thought the public would have that chance at the Council level.

Bill Lunt said he wouldn't like to see the regular applications having to wait through public hearings.

Tony Calcagni thought Bernie Pender's suggestion about a time limit was a good one.

Ethan Croce read from the bylaws regarding public hearings and found there is no provision limiting the length of time a member of the public may speak.

The Board discussed further the option of applying time limits to presentations at public hearings. They discussed a 2 minute limit per speaker, with the Board having the option of extending a person's time at their discretion. There was some discussion about whether the Council would need to approve a time limit. Jay Moody didn't feel that they had to get the Council to agree to the limit; he thought the Chair could simply apply it. He also thought any time limit should apply to all public comment during Planning Board meetings.

Bill Lunt thought this hearing was different from the regular Planning Board duties. He thought the Board's prime concern should be with the applicants and not ordinance amendments, and so the Board should say to the Council that they would do it, but there would be a 2 minute time limit.

Tony Calcagni asked the Board where in the meeting a public hearing should be held.

David Fenderson thought it should come after the administrative items, before the other agenda items.

Bill Lunt agreed. He thought if it was simple they could make their recommendations that night, and if it wasn't they could table it until the next meeting.

Tony Calcagni asked if they would have discussion provided in their packets for the amendments.

Ethan Croce said that could be provided.

7. Workshop discussion regarding allowances for staff-level approvals of minor development applications.

Ethan Croce explained that this would require an ordinance amendment to achieve, so it isn't something that would take effect immediately. This was a recommendation of the CBI study.

Bill Lunt observed that this is a request for mostly administrative items.

Tony Calcagni thought the current administrative action item system works pretty well.

Ethan Croce explained that some communities set clear parameters on what staff can and can't approve; others don't have such clear guidelines, but have checks and balances to check staff authority.

Bill Lunt wondered how the public gets a chance to weigh in on items if they receive staff approval. Ethan Croce said that in some examples he found there was a staff review committee, and public notice and direct abutters were notified, but that was not the case in examples of a de minimus staff approval. In those cases notice was sent to abutters after the approval.

Tony Calcagni asked for a list of items that have been on the administrative action list, that have not been pulled off to be heard as regular agenda items, to see what kinds of things staff could potentially approve.

Bill Lunt thought there were some things that had been on the regular agenda that staff could have handled.

Tony Calcagni also asked Ethan Croce to provide some examples from other communities.

The Board decided to table this workshop until the next meeting.

Meeting adjourned 9:35 pm.

Respectfully submitted,
Melissa Tryon
Recording Secretary