

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, NOVEMBER 4, 2008, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

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

ABSENT: David Fenderson, Stan Bennett (Associate)

STAFF PRESENT: Ethan Croce (Senior 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 October Meeting minutes

Bill Lunt moved to approve the minutes as amended, Hugh Coxe seconded. Motion passed 5-0.

Administrative Items:

Tony Calcagni moved both items to the regular agenda.

Agenda Items:

2. Morong Falmouth – Request for a site plan amendment to revise the façade of the Porsche/Mazda entrance. Tax Sheet 320; Map Lot U07-004-B1. Zoned SB1 and Village Center Overlay.

Tony Calcagni moved this item to the regular agenda due to minor additions to the application.

Dave Richards, architect, handed out additional materials which showed revision to the Porsche entrance from what was submitted in the original application. Yesterday afternoon the manufacturer mandated the change that the panels be 4' x 4' and that there be two of them, instead of three smaller panels. Ethan Croce and Tom Emery the peer reviewer have both had a chance to look at this.

Ethan Croce felt it was a fairly minor change. Tom Emery's letter is before the Board; he has signed off on it as well.

Hugh Coxe moved to approve the application as presented. Bernie Pender seconded. Motion carried 5-0.

3. Timothy Higgins – 390 U.S. Route 1 – Request for a site plan amendment for a re-designed free-standing sign. Tax Sheet 83; Map-Lot U62-003-002. Zoned BP.

Tony Calcagni moved the item to the regular agenda to discuss the proposed conditions of approval, which have been presented to the Board tonight but had not been included in the Board packets.

Ethan Croce read the proposed conditions into the record.

Hugh Coxe moved to approve the item with the proposed conditions; Bill Lunt seconded. Motion carried 5-0.

4. Emery Waterhouse Company – Tidewater Village – Request for an amendment to the TV-2 site plan to allow for covered garages. Tax Sheet 320; Map-Lot R02-009. Zoned TMPDD.

Nathan Bateman presented the application. They recently went before the Town Council to get approval for an amendment to the Master Plan for the additional square footage and added buildings on the site to allow for garages. They are here for a site plan amendment to build the garages.

Bill Lunt disclosed that he is the president of the Tidewater Foundation, which is part of the TMPDD, but on a different parcel. He wanted the Board's opinion on whether he should recuse himself. He was comfortable remaining for this item.

The Board was comfortable with him remaining on the Board for the item.

Shelly Brunelle, of Deluca Hoffman, explained that this parcel first came before the Board as part of the Tidewater Village development. On August 7, 2007 they came before the Board for approval of the multi-use building. They are now requesting final approval of two 4-car covered garages to provide parking for the residential units. The two proposed structures are located on previously approved paved parking spaces, one of which was a handicapped space. Overall parking will be reduced by 5 spaces with these buildings, but the property will still be over the minimum required. They had to restripe a space to provide the third required handicapped space, and will be painting a crosswalk to link the spaces together. They will also have to reroute a stormwater drain and change some landscaping to mitigate views of the new buildings. They will have to file a Tier 1 NRPA permit due to wetland impact behind one of the buildings. They will submit that application later on this week. They are now allowed 9700 square feet on this property due to the rezoning, and they will be just under that with these additions. Finally they want to change the road entrance that goes past the garages to be a one-way, resident-only entrance. They will reduce the width of this entrance to 15 feet and add additional landscaping in that area. The architectural design of the garages is similar to the mixed use building; they have added an extra dormer to the garage, so that there will be two dormers on the garage as suggested by the town's peer reviewer.

Ethan Croce mentioned that the applicant had already addressed the staff's key issues. The DEP permit should be made a condition of approval.

Public comment period opened: no public comment.

Ethan read the proposed conditions of approval into the record.

Hugh Coxe moved to approve the application with the proposed conditions; Bernie seconded. Motion carried 5-0.

5. AT&T Mobility – 356 U.S. Route 1 – Request for approval of a Tier III Wireless Service Facility permit pursuant to Chapter 8, Article X of the Falmouth Code of Ordinances: Personal Wireless Service Facilities Siting. Tax Sheet 150; Map-Lot U53-004. Zoned BP.

Ethan Croce presented the threshold issue: the ordinance requires the submission of a boundary survey. The applicant is asking for a waiver on this requirement, but there is no indication in the ordinance whether this is waivable. However, it can be argued that there is an existing tower already there, which was approved without the survey. Also, the purpose of the boundary survey is to show the height of the tower and its corresponding fall zone, and that it won't cause any hazards if the tower should fall. The site sketch submitted shows that the tower is well over 100 feet from any abutting properties. The Board should determine whether they are comfortable with proceeding without the boundary survey.

Bernie Pender felt they should submit the survey this time despite slipping through the cracks before.

Tony Calcagni asked if the provision was in place at the time of the original submission.

Ethan Croce said it was.

Hugh Coxe didn't feel there was any practical necessity for a survey, but there was a question whether they could waive it.

Bill Lunt thought if a survey had been done initially that he wouldn't feel a need for a new one, since they are just adding height to the tower, but in these circumstances he felt they should require it.

Ethan Croce said that Section 8.353 1.b of the Wireless Ordinance requires the boundary survey. There is no indication that this can be waived.

Tony Calcagni asked about the other threshold issue that needs to be discussed.

Ethan Croce explained that, since this item needed a rezoning from the Council, the Council required an application which conformed to this ordinance. The Council requested the applicant hold a balloon test, which was held in September. The Planning Board was notified of the balloon test, and photos of the test have been provided. The applicant is requesting that the Board not require a second balloon test. A balloon test is required as part of any Tier II or Tier III approval. The Board needs to determine if the one test is sufficient, or if this application should be held separate from the Council application, and therefore a new balloon test would be required.

Bill Lunt didn't feel a second balloon test was necessary.

Hugh Coxe said when the initial tower was approved, the Board assembled during the test to see the balloon test from different angles.

Bill Lunt said that, while he attended the test held for the original tower, the photo simulations were provided from the test.

Tony Calcagni agreed with Bill Lunt.

Bill Lunt asked if the Board has the right to waive the requirement.

Tony Calcagni felt that the test has been done, and the photos are available. The question is whether the Board is satisfied with the photos provided.

Hugh Coxe was comfortable with the test that was done.

Tony Calcagni returned to the issue of the boundary survey. A majority of the Board has indicated they would like to see a boundary survey.

Ethan Croce suggested that the boundary survey could be made a condition of approval.

Bob Gashlin, of AT&T Mobility, asked about the boundary survey. He wondered if the other carriers on the tower had been required to do a boundary survey.

Tony Calcagni explained that there has not been a boundary survey to date at all. That was an oversight. Also, the Board is not able to waive this requirement.

The Board decided to handle the boundary survey issue as a condition of approval.

Bob Gashlin presented his application. They are proposing adding 10 feet to the tower at 356 Route One. The existing tower is 90 feet tall, and they would like to extend that to 100 feet, in order to add another carrier to the tower (there are already two carriers on there). It would not work for their system to add antennae lower on the tower. They propose three panel antennas, flush mounted to the tower. This site is fairly well masked due to the site and the monopole type of tower. There are only

six places in town where you can see the tower. They needed a conditional rezoning from the Council to do this, which they have received. In addition to the 10 foot extension, they are proposing adding a shed, a generator and a diesel fuel tank to the site. They did look at another site in town, behind Public Works on Woods Rd, but found a similar problem out there, where their equipment would have to be installed too low to reach their coverage objective, which is to cover 295 and Route 1 North, and Route 88 out to the Foreside.

Bernie Pender asked what size tank will be placed for the diesel, and about leakage precautions.

Mr. Gashlin said it is a 186 gallon tank, and AT&T spends a lot of time maintaining and inspecting.

Bernie Pender asked if there was any catch tray or catch basin.

Mr. Gashlin didn't know; he offered to look for the answer.

Bernie Pender asked about sound from the generator; he wondered how often it runs.

Mr. Gashlin said that it is an emergency backup system. The primary backup source is provided from batteries in the shed, which provide energy for about seven hours, at which time the generator would kick in. Also, the generator needs to be maintained, so it will be cycled on every two weeks, but that will only happen during normal business hours.

Hugh Coxe asked about any visibility analysis from the water, specifically Casco Bay.

Mr. Gashlin said that, as a resident of Falmouth, he was sure that you can't see the tower from Casco Bay. It is about 1.7 miles away. There is also a 72-100 foot hill from the docks to Route 88.

Hugh Coxe explained that he was more thinking about sight from the bay, not the docks.

Mr. Gashlin said that it is a monopole, which is only 18-24 inches wide at the top, and painted gray, with flush mounted antennae, so with the distance and the profile, he didn't feel that they will be able to see it from the Bay.

Ethan Croce presented the key issues. First, the ordinance requires that photos be taken from every public road from which the balloon could be seen. Secondly, that the photo analysis should indicate the view of the balloon in both leaf-in and leaf-off conditions. Third, the view of the balloon test from the water. Fourth, the restriction on the original application of removal of trees within 90 feet of the tower; the board should decide whether they wish to extend this to 100 feet, due to the increase in the height of the tower. Fifth, confirmation of the intent of the applicant to paint the top of the pole the "battleship grey" as was approved in the original application. Sixth, the issue of the generator, has been addressed.

Barry Hobbins, attorney, explained his involvement in the wireless ordinance, and that the conditional rezoning was a very important part of the process. The balloon test showed that the visual impact of one 100 foot monopole is less than if they were to install a second tower. To meet the conditional rezoning they demonstrated that this idea of extending 10 feet was the best alternative to constructing an additional structure. One of the requirements of the photo simulations was to take a photo from the nearest residential home. This particular site is unique in that there is coniferous vegetation, so there is little difference between leaf-in and leaf-out conditions. The nearest residential area is 750 feet away, and there is no visual impact on that neighborhood.

Tony Calcagni asked if the photos were taken from all public roads.

Mr. Hobbins said yes, the photos were taken almost exactly where the photos were taken for the original 2004 Sprint application. He provided the Board with blown up copies of the photos.

Tony Calcagni asked about the leaf-on vs. leaf-off conditions for the site.

Mr. Hobbins said they are talking about evergreen trees; with the issue of fall-down zones, with the additional survey work it will show that even the 10 foot increase will not affect the fall-down zone, and won't affect any neighbors.

Tony moved on to the question of the 90 foot fall zone, and whether the zone should be increased.

Mr. Hobbins explained that the monopoles are constructed to collapse onto themselves, and not made to fall straight down like radio towers.

Mr. Gashlin said that on page three of the site plan, they did pencil in a new 100 fall-down zone.

Tony Calcagni asked about the no-cut restriction.

Ethan Croce read the provision of the ordinance in question, 8-353 5(1).

Mr. Hobbins didn't feel adding an extra ten feet onto the no-cut zone would be significant for them.

Mr. Gashlin agreed.

Mr. Hobbins raised the issue of the equipment inside the shed; there is an air conditioner in the shed, which will create a slight noise, and there is a down draft light.

Public comment period opened; no public comment.

Ethan Croce read the proposed conditions of approval into the record, including the addition of a condition requiring the submission of a boundary survey, as requested by the Board tonight.

Tony Calcagni asked about the 100 foot no-cut zone; he wondered if AT&T is a tenant.

Mr. Hobbins said they are, but the intent of the lease is to be consistent with local zoning, which includes any conditions imposed by the Planning Board.

Hugh Coxe moved to approve the application with conditions; Bill Lunt seconded. Motion carried 5-0.

Workshop Items:

6. Workshop discussion regarding a request from the Town's Open Space Ombudsman, Bob Shafto, relative to a grant application to the Department of Conservation for construction of a trail system on the River Point parcel

Bob Shafto, open space ombudsmen, presented the details of the grant application on behalf of the Conservation Commission. Their intent for the River Point property is to create recreational trails along the Piscataqua river branches. This will require a permanent, pedestrian suspension bridge. He wanted the Board to determine if this is an acceptable use for this property.

Hugh Coxe asked if the property is zoned RP.

Mr. Shafto said it is, and they are subject to DEP regulations as well.

Hugh Coxe asked if foot bridges are allowed in this zone.

Ethan Croce said they are, with a Planning Board Shoreland zone approval.

Mr. Shafto explained details about the proposed trails along the river, leading up to Cumberland.

Tony Calcagni felt it was a great plan, and consistent with the local ordinances.

Bernie Pender felt it looked good.

Hugh Coxe quickly reviewed the shoreland zone ordinance, and felt that the DEP will be more restrictive than the Board would.

7. Workshop discussion regarding amending Planning Board Rules of Procedure to allow for public hearings as the municipal review authority.

Ethan Croce reviewed the need for this amendment to the rules of procedure. The Board has been provide with a draft

Tony Calcagni asked about the new section 6.3 b., where it says the Board “may recommend”; he thought they had discussed that the Board should issue a recommendation.

Ethan Croce said the “may” gave them some flexibility if they didn’t want to make a recommendation on a particular item.

The Board felt that the wording should be “shall”.

Hugh Coxe explained that with LPAC the hearing is merely a formality, but if the Planning Board is going to do it, it makes sense for the Board to issue a recommendation.

Tony Calcagni suggested inserting into section 5.1 language that indicated the placement of the MRA hearings after the administrative items but before the regular agenda items.

Bill Lunt felt that it could be addressed under 6.3 a, which would keep it all together in one section.

Tony Calcagni thought there could be a new 6.3 a(1) to indicated the placement.

Bill Lunt moved to recommend the new section 6.3 as amended to be added to the rules of procedure. Bernie Pender seconded. Motion carried 5-0.

8. Workshop discussion relative to a new Ordinance concerning the terms of members of Boards, Commissions, and Committees.

Tony explained that the Town Council has passed an ordinance amendment in order to start all terms in January. The Council, in order to move to the new system, has asked all Boards and Committees to assign each member, starting in January, staggered terms of one-, two- and three-year terms.

Tony is suggesting that they assign these by seniority, with the most senior members receiving the shorter terms. Under this arrangement, Tony would serve the one year term, Bill and David would serve the two-year terms, and Bernie and the member taking Hugh’s place would get the three year terms. Associates will have one year terms until they are appointed as a regular member for a three year term.

Ethan Croce clarified that the draft ordinance hasn’t been approved yet; it is being revised currently to prevent any members of second terms being termed out if they had already served 18 months of their second term.

The Board agreed with Tony Calcagni’s suggestion.

Meeting adjourned 8:11 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary