

**FALMOUTH PLANNING BOARD MEETING MINUTES**  
**TUESDAY, SEPTEMBER 1, 2009, 6:30 P.M.**  
**FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Tony Calcagni, Bernard Pender, William Lunt, Stan Bennett, Rebecca Casey

**ABSENT:** Jay Moody, David Fenderson

**STAFF PRESENT:** Ethan Croce (Senior Planner), Robert Lynn (Recording Secretary)

The meeting was called to order at 6.35pm.

Rebecca Casey was designated as a voting member for the meeting.

**1. Approval of August Meeting minutes**

Stan Bennett moved to approve the item, Bill Lunt seconded. The motion carried 3-0. (Bernard Pender and Tony Calcagni excused themselves from voting).

**ADMINISTRATIVE ACTION ITEMS:**

**2. Anderson Ave, LLC** – Presidio Way – Request to remove 55+ age restriction from the Smith Farm Development. Tax Sheet 280; Map-Lot R06-030 et al. Zoned Mixed Use & Rt. 100 CO.

Tony Calcagni asked if any member of the Board or public wished to move any item from the Administrative Action agenda to the regular agenda.

John Winslow wished to comment on the Anderson Ave, LLC item.

Tony Calcagni moved the Anderson Ave, LLC to the first item in regular agenda.

**3. Consideration of Findings of Fact** relative to the Fill Permit Approval granted to Charles deSieyes at the August 4, 2009 Planning Board meeting.

Tony Calcagni asked Ethan Croce if the format has been approved by the Town Attorney.

Ethan Croce said it has.

Bill Lunt moved to approve the item, Rebecca Casey seconded. 5-0 in favor.

**4. MRA Hearing** Proposed amendments to the Zoning and Site Plan Review Ordinance relative to stormwater management

Tony Calcagni asked Ethan Croce to briefly summarize the amendments.

Ethan Croce said the State of Maine is mandating that municipalities adopt amendments to their ordinances to incorporate post-construction management for stormwater management facilities when the project threshold exceeds one acre of disturbance. It has been mandated by the State to be similar to the shoreland zoning amendments. A new Section 5.39 has been proposed that outlines the specifications and requirements for what these post-construction plans need to look like.

Tony Calcagni asked if any member of the public wished to comment on the proposed amendments.

Tony Calcagni closed the public part of the hearing. He asked where the Board stood on the issue.

Stan Bennett moved to approve the item, Bernard Pender seconded. 5-0 in favor.

**REGULAR AGENDA ITEMS:**

**Administrative Action Item 2 (Regular Agenda Item 1) Anderson Ave, LLC** – Presidio Way – Request to remove 55+ age restriction from the Smith Farm Development. Tax Sheet 280; Map-Lot R06-030 et al. Zoned Mixed Use & Rt. 100 CO.

Tony Calcagni asked Ethan Croce to summarize the key issues.

Ethan Croce said the project received site-plan approval in summer 2004; it is a condominium development with 15 units. Current staff were not employed when this project made it through the process and had to review earlier records to

understand it. The only mention to the 55 and over age-restriction was made in one of the sets of minutes and this two sentence exchange was included in the packets. After reviewing this record it appears as though the age restriction was self-imposed by the developer rather than the Town or Planning Board which is why it was placed on the Administrative Action agenda.

John Winslow, 253 Gray Road. He endorsed the restriction being lifted. He noted the project was approved in 2004 and felt it was a lot to ask for a challenged piece of property. The Town approved it despite the piece of land and granted a number of variances for septics, setback reductions and road-width reductions. He feels the Town and Staff have an obligation to ensure these projects are financially viable. He enquired if there was a way in the future to implement a build-out date for projects like this so that someone buying into a project can see the end of the tunnel when construction is going to start. There is continuous construction occurring long after the development has been started, he feels it is unfair to abutters and the people buying into the properties. As such, he hopes they could institute a build-out date for future project approvals.

Tony Calcagni said his recollection was that the applicant suggested they wanted the 55+ age restriction and made it into the public record and consequently became a condition of approval, but it was not a Town imposed requirement. He closed the public section of the hearing.

Bill Lunt also recalled the original age restriction conditions and noted the age restriction was imposed by the developer not the Planning Board. As such, he has no qualms with removing the restriction.

Bill Lunt moved to approve the item, Stan Bennett seconded. 5-0 in favor.

**5. Elizabeth Moss** – 251 US Route 1- Request for approval for a sign replacement at the Falmouth Shopping Center. Tax Sheet 240; Map-Lot U12-002. Zoned SB-1 and Village Center Overlay.

Ethan Croce summarized the two key issues. The proposed sign is a replacement sign for an existing business at the Falmouth shopping centre. The applicant recently disassociated herself with the former fast-frame franchise that shared the space with her so she has now become Elizabeth Moss Framing and Art Gallery. The sign complies with all applicable Ordinance requirements but it deviates from the design guidelines in two respects which is why it is not an Administrative Action item. There are technically four colors on the sign, whereas the Ordinance requires three. The design guidelines have a restriction at 30 letters but the proposed sign has 37. In the past the Board has been able to waive this requirement where they deem that the extra wording is essential to advertise the function of the business. This matter is for the Board to deliberate.

Bill Lunt asked if there was any attempt by the applicant to contact the Planning Department about what would be acceptable.

Ethan Croce said they had conversed and the applicant felt it was the name of her business and hoped the Board would have some flexibility to approve the extra verbiage.

Bill Lunt asked if she had installed the sign before the she consulted with the Town.

Ethan Croce said she contacted the Planning Office prior to installing the sign.

Stan Bennett asked about the original sign and how it was approved.

Ethan Croce said it was approved in 2003 but he is not sure what the conditions of approval where. He speculated that perhaps it was granted because there were two separate businesses at the site then perhaps rather than have two separate signs they could exceed the 30 letter limitation on a single sign.

Bernard Pender asked if Ethan Croce told the applicant she would be in violation of the Ordinance if she put up the sign.

Ethan Croce said she is in compliance with the Ordinance but not the design guidelines for the aforementioned reasons.

Rebecca Casey asked what they would think if it had not been installed yet. She feels sympathetic to the colors since the grey is less contrasting and it is overall visually more calm than the earlier sign, she is happy to approve it and perhaps reduce the verbiage although she does not think this will impact greatly upon the readability or busyness of the sign.

Tony Calcagni asked if the applicant or their agent was here to present. He opened the item to the public, and closed the public section of the session.

Stan Bennett said he would vote to approve the sign but would ask the Staff to be more adamant in the future regarding the consequences for businesses who wish to install signs that violate the design guidelines.

Ethan Croce said the applicant was made well aware that the sign might have to be taken down.

Bill Lunt said he does not feel comfortable approving the sign as he feels there is a distinction between ignorance and knowing the requirements and doing it wrong anyway.

Ethan Croce noted the Fast Frame Franchise was mandating that she replace the sign within a certain amount of days which was before the date that she could get on a Planning Board agenda. The applicant represented to Staff that it was not ideal timing for her either but she needed to replace the existing sign and felt that since the temporary sign would be similar in cost to the permanent sign it was decided to go ahead with the permanent option.

Bill Lunt feels it is a flagrant issue as he does not think a temporary sign would cost the same as a permanent one.

Bernard Pender said if they were going to split the businesses there would have been some advance notice of it and they would have known what the guidelines were.

Tony Calcagni asked for further comment. He suggested they could move to approve the sign as proposed and if not they could determine what would need to be done to resolve it.

Bill Lunt asked for them to move the vote.

Stan Bennett moved to approve the item, Rebecca Casey seconded. Approved 3-2 in favor. (Lunt, Pender)

**6. Ellen Josephs** – Parker Way – Request for preliminary and final subdivision approval for a six-lot conservation subdivision. Tax Sheet 220; Map-Lot R03-036. Zoned Farm and Forest, RCZO, & SP (Shoreland).

Ethan Croce summarized the key issues. He noted they are asking for only preliminary approval tonight, not final approval. First, the applicant is asking for two waivers - one on the dead-end road length limitation of 1500ft, they are asking for a 1562ft dead-end road. At the Planning Board meeting 2 months ago the Board was in favor of granting this waiver as they felt the road design followed the 4 step design process. The second waiver request was with respect to the road-way width; since it is a minor local street serving 9-lots the road-width should be 22ft under the Ordinance but the Ordinance does grant the Board some flexibility in adjusting the road width to accommodate the number of lots served. After discussion two months ago and a straw-pole vote, the Board was in support of allowing a 22ft width up to where the road passes Lot 3 on the plan, after which it could drop to a 16ft width which reflects the roadway standards when serving 3 lots. The second issue concerns setbacks, the applicant has changed all lots to meet the Farm and Forest district setback standards (20ft side, 25ft front and 40ft rear) except Lot 4 which has a 20ft rear set-back onto common open space. The third issue is whether the applicant should extend public water up Woods Road rather than supplying wells. The applicant has provided three additional estimates from three firms regarding the cost of this. The subdivision standards give the Board authority to approve plans with wells rather than public water if it is deemed not feasible to do so. The fourth issue, the applicant was asked to provide information regarding fire protection and this has not been included in this month's packet. The applicant has not proposed a means of fire protection yet; if it is on public water then it will probably be fire hydrants, if the development is to be on wells then the Board typically looks for sprinkler systems or underground cisterns or fire ponds. Another issue concerns the performance guarantee, there was nothing in the submittal regarding what type of performance guarantee is being proposed, this is typically a condition of final approval and thus would not have been included as a key issue had staff know they were only going to be seeking preliminary approval tonight. Staff have also asked for clarification about the specific treatment of the common open space and the different buffer areas. The perimeter buffer surrounds the entire property; there are natural resource buffers which surround the streams, floodplains and high value wetlands on the site. There is also common open space which is not encumbered by either of the buffer areas, Staff have asked for additional information about what can be done in those different areas. As the legal documents are currently written, they give the applicant an allowance to construct small structures and do some limited clearing within the open space, Staff have recommended that along the perimeter buffer (which is intended to serve as a buffer to abutting properties) that it be changed to a no-disturb buffer to guarantee it remains an effective screen for perpetuity. In addition, the buffers around the natural resource areas should be defined as strictly no disturbance since the Ordinance does not allow for any cutting within those natural resource areas. He noted some miscellaneous details such as the legal documentation and some other plan notes and suggestions which are typically dealt with at the final approval stage.

Tony Calcagni asked Judy Soule to summarize the key changes to the subdivision plans.

Judy Soule, land surveyor with Titcomb Associates. She noted the project has been before the Board several times. Most recently the biggest design issue was the setback issue - they have amended this and have moved from 10ft to 20ft side setbacks and 20ft to 40ft rear except on Lot 4 where the building envelope is somewhat restricted and as such they feel a 20ft set-back there is acceptable since it abuts open-space to the rear. She said it is a 6-lot conservation subdivision which has been through the 4-step design process. The total project area is 18.6 acres and they are proposing 6-lots (approximately  $\frac{3}{4}$  acres age) and the open space required is 12.7 acres though they are providing 12.9 acres with an additional 2.7 acres restricted on the lots themselves with a no disturb window around the properties for a total of 15.6 out of 18.6 acres. Essentially, they are looking at 3 acres for 6 lots and a road. She noted they will address the miscellaneous items on the final plans and mentioned they have a letter from Sweet Associates that states wells can be situated on each property, they also have estimates from Hansen Well Drilling stating that they can drill wells on each of the lots an average of 300ft deep as they have created wells in the area before. She said they have added the monuments that need to be located on the plan and the transformer pads and utility boxes that would be located in the no disturbance area on each of the lots would be in the no disturbance area and they have allowed for that exception in the legal documents and feel that additional landscaping probably would not be necessary because it is all wooded and as long as they restore it to its natural vegetated state. They have addressed the fire protection issue and will put sprinklers in all the houses and they received comment from Doug Patey of the Fire Department. The performance guarantee is in a draft letter from the lender who is prepared to back the project, as such, they have a letter of intent for the performance issues. Terry Snow will address the legal issues.

Tony Calcagni asked Ms. Soule to identify on the plan where Lot 4 is.

Ms. Soule identified it and said it is only instance where the rear setback is less than the requirements. Thus, there is roughly 95 ft of buffered space behind the property to the property line.

Tony Calcagni asked about the road-widths.

Ms. Soule said they are intending to stay with 22ft then reducing it to 16ft after the wetland crossing.

Stan Bennett asked about what they had received from the Fire Department.

Ms. Soule said the Fire Department reviewed the plans sent by Steve Bradstreet and noted the plans they received did not show any fire protection system being provided at all and he suggested either holding tanks or a fire pond or installing sprinkler systems. After consultation with the client they have opted for sprinkler systems; however, the Fire Department has not had an opportunity to comment on the proposal.

Steve Bradstreet, Oak Engineers, said a number of items were not on the plans at the last meeting that were brought up. The paper streets that were on the plans by Titcomb which required the shifting of the last detention basin at the hammerhead has been shifted and there is no additional impact to wetlands. He noted that the grading previously appeared to be outside the right of way, it has been revised and now there is no grading on any land which is not under the control of the Josephs. The transformers, underground utilities, telephone pads have been shown on the plans and were previously shown on a 10x10 easement on the property line, it is no longer split on the property and it is currently on one property throughout there. Tony Hayes had some comments with regard to the entrance, the existing road was showing some distress in the pavement, they had provided a storm drain system along the left side as you enter with a couple of catch basins, that storm drain will also be perforated and act as an underdrain with a 12" line. On the opposite side where Jeffrey Josephs has already landscaped and installed an underdrain per Tony's request a few years ago, they have now shown this on the plans and upgraded to be shown on the plans as a 6" line that outlets towards the stream. Those have been sent back with specific details to Tony and he has accepted and approved them. The reduced width of the road begins at station 12+10 and ends at station 12+60, it is a 50ft taper based on design guidelines for the anticipated speed limit of the road. That is shown on the plans and it tapers down to 16ft before the wetlands. The building setbacks were also revised on their plans. The fire chief sent an email on Monday with regards to the fire protection for the development that was not shown on the plans and offered three options of an underground with 30,000 gallons which is enough to provide 250 gallons per minute for two hours, or a pond designed appropriately the same way or to provide sprinkler systems within each house - the client has opted for sprinkler systems. With regard to the water mains, four contractors have been contacted and Ms. Soule distributed a break-down of this to the Board. The public water is being extended 3500ft along Woods Road into the development, estimates from the four contractors average \$444,500 and that is estimated on an 8" waterline; however, after consultation with the Portland Water District (Rico Spugnardi) they said it would need to be a 12" mains, thus, the estimates presented are lower than what they should be. The Portland Water

District have been asked to determine adequate flow and pressure to see if the development can even be serviced by public water. Currently the end of the line offers 932 gallons per minute at around 38 to 42 psi. Mr. Spugnardi questioned whether there would be enough pressure or if a booster station would be required. He noted they cost around \$150,000 to \$250,000 depending on how much flow is required. This averages out to about \$74,000 per lot. A private well on each lot would cost around \$5700 for a private well on each lot (from Hansen's Well Drilling). A sprinkler system in each house would cost around \$4,000 - \$5,000 for a system with a separate, pressurized tank in the basement. Through an evaluation with the realtor, there would be a reduction in property value of around \$10,000 per lot for private water versus public water. The applicant feels there is increased marketability of the lots with the public water provided they can install public water without the need for a booster station and they have not heard back from Mr. Spugnardi yet about this.

Bill Lunt asked what the distance from where Parker Way meets Woods Road to the existing waterline.

Ms. Soule said it is about 3,000', the present length of Parker Way is about 700' and it will be 2800'.

Bill Lunt if the 3500' goes all the way up into the project.

Ms. Soule said it goes to the end of the existing Parker Way.

Stan Bennett asked about the average cost of \$444,000 and whether they included drilling in those figures.

Ms. Soule said that in determining the number they looked at the actual possible cost being incurred in order to properly evaluate the cost to the developer. It seemed appropriate to take the higher of the figures because they know there will be blasting required.

Mr. Bradstreet noted that based on the new police station and from their conversations with the water district there is a lot of ledge in the area and thus will be encountering that.

Bill Lunt asked about the cost estimate from Story Brothers which says 4 hydrants and 6 services, he wondered if this was the six services inside the complex.

Mr. Bradstreet said it was.

Bill Lunt asked if this meant the 3500' is included in the water-line that is in the project.

Ms. Soule said it did not originally as Story Brothers did not realize they needed to have it broken out from within the project to the area between the project and the current waterline so their figure is misleading.

Tony Calcagni said it would be worthwhile getting more information on this.

Terry Snow, attorney from Cumberland, said he has addressed the six bullets on the legal documents on the schedule for tonight and noted he has incorporated all the requests that were in that in the recent drafts which will be going out to Staff at the start of next week. The first two concerned non-disturbance areas and allowances for uses in the Open spaces. The buffer areas, same thing, they have put the language that was required there. Section 6.4 now requires a majority vote of the 3 lot Parker Way which he referred to as a private way and is no longer dictated by one lot owner. The warranty deed has been changed as requested and they propose \$5,000 for the stewardship account to be administered by the association but with the oversight through the Town on their executory interest rights if it needed to be enforced and that would be split equally among the 6 lot owners.

Tony Calcagni noted the road commissioner has a decent amount of discretion and power in maintaining the road, he felt that in the earlier version, so long as the applicant had an interest in Lot 3 or any of the six lots in the expanded subdivision they would be insured as the road commissioner. He asked if this was still the arrangement.

Mr. Snow said it has changed, there will be a road association for the 6 lot Parker Way extension, Parker Way will still be run by a road commissioner who, in addition to a representative of the 6-lot subdivision, will discuss the maintenance of the road, the costs and the assessments. If they cannot agree then they will pick a third number to resolve a tie-break and if that does not work then it would be binding arbitration.

Tony Calcagni asked for clarification and if the new road (the Parker Road extension) is being maintained according to the declaration or if there was going to be a separate road maintenance agreement for those six lot owners.

Mr. Snow said there will be a separate agreement with those six lot owners.

Tony Calcagni said there will be one road maintenance agreement for that extension and asked if there would be a new road maintenance agreement for the original Parker Way.

Mr. Snow said it has been amended.

Tony Calcagni confirmed there is an amended road maintenance agreement for the existing Parker Way and a new road maintenance agreement just for the extension.

Mr. Snow said the Josephs have the right to transfer that road to the association at any time (provided the road association agrees to take over the fee of the road) but to such time that the Josephs no longer have any interest in Lot 3 they shall cede it to the association too.

Tony Calcagni asked if the association is only comprised of the 6 new lot owners.

Mr. Snow said that was correct.

Tony Calcagni asked how the existing three lot owners on Parker Way will have a say if that happens.

Mr. Snow said the fee ownership would change and be in the association but the governing structure and everything else would stay the same.

Tony Calcagni said the fee is owned by the association but the maintenance of the current original Parker Way continues to get maintained pursuant to this amended agreement.

Mr. Snow said the 3 lot parker way private right of way, each lot owner pays \$1200 per year currently, that will remain unless they together change it - if the 3-lot private way and the 6-lot subdivision decide to change it with the road association. The members of the 6-lot subdivision each pay \$600 per year.

Tony Calcagni asked why they would not have one road maintenance agreement rather than a 9-lot agreement

Mr. Snow said they felt this was the better way to do it, with the 3-lot separate from the new 6-lot subdivision and owners of the 3-lots did not want to give up some of their rights.

Tony Calcagni asked how the new road maintenance agreement for the 3-lots can be amended.

Mr. Snow said it could only be amended if a majority vote of the three lots agree to amend it and the road association agrees to amend it if it affects the 6-lot subdivision. It cannot be unilaterally amended by the Josephs.

Rebecca Casey asked about Section 6.4 where it says this agreement may be amended by a written agreement signed by at least a majority of the owners or record of Lot 3.

Mr. Snow reiterated that this has been amended.

Tony Calcagni clarified that they have not seen the most recently amended iteration. He asked whether two of the three want to amend it, and only one of the six want to amend it.

Mr. Snow said it would not because the association would have to agree and the association would have to do it by a majority vote.

Tony Calcagni asked if the association wanted to amend it but one of the original three wanted to then would they have a majority.

Mr. Snow said it would not be sufficient.

Tony Calcagni said that conceivably you could have seven lot owners who want to amend it but it could not get amended in that format.

Mr. Snow said the way to look at it is that each has their own separate area and it takes a majority from both areas to reach an agreement to amend it.

Tony Calcagni asked about the road commissioner. He asked if there is any arrangement that will ensure the applicant remains the road commissioner for any length of time.

Mr. Snow said the applicant plans to stay road commissioner.

Tony Calcagni asked what would have to happen for that to change.

Mr. Snow said he would have to resign or to request to be re-appointed.

Tony Calcagni asked if the other lot owners want to change the road commissioner but he wanted to remain then that would not be sufficient to change the road commissioner?

Mr. Snow said that this would not be possible under the present formula.

Tony Calcagni asked why the Board should approve this arrangement.

Mr. Snow said the work he puts in as well as the charges for the association are very reasonable; he reiterated that it was family land and the applicant wishes to keep up with the original standards.

Tony Calcagni said the declaration of covenants is now being amended to incorporate all the staff comments on open space. He asked what currently is being proposed.

Mr. Snow said he will forward out a red-line and a clean copy to the Planning Board.

Tony Calcagni asked what the declaration of covenants deals with - he wondered if it outlines what the open space may be used for and if it mentions the road.

Mr. Snow said it includes the road for the subdivision.

Tony Calcagni asked if there were any reserved rights of the applicant in the open space beyond what the 6-lot owners have just by virtue of ownership of their lots.

Mr. Snow said he does not believe so.

Tony Calcagni said the warranty deed is interesting because it had the Town as an executive interest holder, and each of the six deeds they are asking the Town to execute the deed.

Mr. Snow said it is a requirement under the Town's Ordinance; the Town wants to be able to, if necessary, go in and enforce or administer things under this conservation easement. This is a standard form.

Tony Calcagni said he feels this is different to a conservation easement and would be intrigued to hear what the Town Attorney has to say. He noted that at the very least rather than signing 6 separate deeds it could be handled in the declaration. He mentioned the other issue which stood out was that the corrective action to be taken and the opportunity to be heard in the event of a violation of the open space restriction would be at a hearing before the Falmouth Planning Board to be heard not less than 30 days after the violation is given. He said that is not a responsibility of the Planning Board. He felt that the executory interest protocols should be taken out of the deeds and put in the declaration. He said he also has a real problem about the unusual arrangement of the road commissioner. Even if all other 8 lot owners would like to change the road commissioner they would be unable to do so and would have to wait not only until the owner of Lot 3 sells but provided they own any of the back 6 lots they control the entire board of the association.

Mr. Snow said that if they only own 1-lot in the 6-lot subdivision then there are 5 other owners that would have the majority vote.

Tony Calcagni said that the version that he has states that only when the 6<sup>th</sup> lot is actually sold does the association get to determine its own board.

Mr. Snow said that has been changed.

Tony Calcagni noted it is highly unusual to agree to such an unusual governing structure.

Ms. Soule said the original private way was approved by the Planning Board in 2005 and in order to include that private way completely in the homeowners association proposed for Hemlock Woods they would have to have the approval of all 3 lot owners and that did not seem to be forthcoming. Without that, it seems impossible to include all 9-lots on an equal footing because they are being created differently. The original lots are much larger in size and it is an unequal situation.

Tony Calcagni clarified they cannot amend the existing road maintenance agreement without the cooperation of the other two lot owners.

Ms. Soule said this is the interpretation the Town has offered.

Rebecca Casey asked about clearing in the no-disturbance areas.

Ethan Croce said his interpretation of the applicant's comments is that they are amenable to address all the issues raised by staff.

Ms. Soule said the attorney has made a number of changes to the proposed documents; there will be considerable clarification on what is and is not allowed in the no disturbance areas on properties, in the perimeter buffer, in the open space and the natural resource protection zones - there will be no clearing in any of those zones.

Tony Calcagni noted that in the by-laws of his materials, the 3 member board of the association is elected by the applicant until all 6-lots are sold so they could feasibly hold one of the 6 lots for 50 years and thereby have complete control of the association for that period.

Diane Dresser, Whispers Way. She owns the property behind proposed Lot 3. She asked about the trails that run around the properties and who actually owns the open space.

Ms. Soule said the proposed trails have been required by the Town Ordinance and at least two of which must go to the edge of the property, what happens past the edge of the property is undetermined but those trails are required by the Ordinance. She said two trails extend to the boundary and pass through the proposed paper streets – one goes to the Southard property and the other to the Goddard property.

Tony Calcagni confirmed that they both go to the northwest line where the paper streets are.

Bill Lunt asked if either of the trails are now being used

Ms. Soule said they are all new trails as required by the Town Ordinance.

Mr. Snow said the open space will be owned by the association from the very start.

Ms. Dresser asked about the trail which will go into the Southard property and whether they had approved it.

Ethan Croce said the Ordinance requires that where streets are not connecting through and dead-end conditions are proposed, the developers must install pedestrian connections instead to abutting properties. If the Goddard or Southard property develops in the future then there can be coordinated links between the various systems.

Ms. Dresser said she understands it is family land but once it goes out to a development the family issue becomes extinct and the actual residents should be able determine their own rules. She feels there is a little jutting on the original Parker Way where the Josephs have put a basketball hoop and that is not really their property, she feels that everyone should get together and make rules rather than acting on the basis that it has been in their family for years.

Dana Dresser, lives at Whispers Way - a private way which runs to the backside of the development. He is an abutter to the development and an owner of a spec house that is in Lot 1 on the right hand side of Parker Way (Golden Bends LLC). He is in the midst of trying to sell the home. He sent a letter on June 1<sup>st</sup> and missed the follow-up at the subsequent meeting but feels that they addressed some of the issues raised although he still has a few issues. He asked if the open space will be owned by the homeowners association and not owned or retained by the Josephs.

Mr. Snow said that is correct.

Mr. Dresser said he is confused about the road maintenance agreement and feels it is fraught with problems to have two separate agreements as the first three-lot owners could make things difficult for the others. He feels that everyone is asking is for a majority rule. Jeff Josephs already does a good job of maintaining the road and if he continues then people will re-elect him. He noted that it sounds as though a majority could not be had by the first 3-lot owners, he mentioned that no-one has asked him about the road-maintenance agreement since he has owned the property since May 2009. Ms. Dresser mentioned about the Josephs declaration about the property being family land and thus the Josephs should retain the right to maintain the property. He noted that the moment lots were sold for profit it became a business proposition and the sentimental value and loyalty to the land is long removed at that point. There are people who have made significant investments in the property and they would hope to have them maintained by having a voice in the property. He is concerned there is a trail that dead-ends to the Southard's and another than dead-ends to the pole-line and half that pole-line is on his property. He is a little concerned about the prospect of increased foot-traffic next to or across his property. He also mentioned the deer-yard and said he is unsure if it is an issue or not but said they have deer in their backyard during the winter.

Ms. Soule noted that the IFW said there are no deer-yards on the property and that is what is required by the Town.



Tony Calcagni asked about the trail going to the power line.

Ms. Soule said there is not and they decided not to pursue it since it did not seem appropriate to dead-end a trail on private property; however, she noted that they are currently doing it to the northwest of the property but it does not currently go to the property line.

Tony Calcagni closed the public section of the hearing. He mentioned the waiver requests, he asked about the reduction in dead-end length and if there was still unanimous support to allow a 1562ft dead-end. The second request was a pavement width reduction from 22ft to 16ft and recalled that 3 of the 5 voting members agreed with it. He said the road-way is 22ft until the wetlands crossing at which point there are only 3 more lots are served and the road consequently is reduced to 16ft at this point. The Planning Board voted 5-0 in favor of this proposed waiver. He asked about the building setbacks, they are fully compliant with the underlying setback requirements in all locations except Lot 4 where the rear line is only 20ft as opposed to the 40ft recommended but there is another 75ft before the abutting land-owner due to the 50ft perimeter buffer and an extra bit of land in the open space. The Planning Board voted 5-0 in favor of this waiver. He asked about the debate between public water and private wells.

Stan Bennett asked for an executive summary of their responsibility relating to requiring public water for a development such as this.

Ethan Croce read Appendix 1 Section L.1 from the Ordinance - *'if in the opinion of the board service to each lot by public water supply is not feasible the Board may allow individual wells to be used.'*

Stan Bennett asked what this applies to.

Tony Calcagni said they require it unless it is not feasible.

Stan Bennett asked if there are any guidelines in the Ordinance for what is or is not feasible and whether there is a percentage or figure for guidance.

Ethan Croce said the wording gives the Planning Board a great deal of discretion.

Bill Lunt said that he does not like the clarifications he has received so far on the water extensions, he is not ready to pass judgment on requiring water extension. He noted the numbers do not really jive and it is a problem they are coming onto on multiple occasions and in order for him to be comfortable he needs better clarification and more complete information. The \$440,000 makes no sense when you look at the other pieces of information there, given that other estimates fluctuate significantly, as such he is not comfortable to act on them.

Stan Bennett said that even if they were correct and there were a difference of \$50,000 per lot given the fact that there are not guidelines this would be an acceptable level of increased cost in order to do the right thing, but he would like to see clearer and more specific information.

Bernard Pender agreed with Stan Bennett's and Bill Lunt's interpretations.

Rebecca Casey asked for clarification on the sprinkler system estimate.

Tony Calcagni said the majority of the Planning Board is not convinced that the public water extension is not feasible. He felt that they need better information in the cost comparison and it still is not clear to him how much the numbers would need to change to show the board that public water is not feasible since they have no guidance on this, then \$50,000 becomes feasible. He said he would be looking closely at the next round of legal documents, he noted he is concerned with what he saw in the package for the road arrangement, he felt it was unusually complicated and tilted towards the developer. They will ultimately have a private way serving 9 lots and they will need a reasonably customary and fair approach to the maintenance of the road.

Bill Lunt said the reason they could not have one road maintenance agreement is because they could not get a majority to agree on the first 3 lots, the very last section 6.4 in the 2005 agreement says - *this agreement can be amended by a written instrument signed by at least a majority of the owners of lot 3*. He said people will buy and live in the area and the road (Parker Way) will be starting at Woods Road and the owners of those 9 lots will all be using the same road and they will be paying the cost of maintaining it, thus, he feels they would be remiss if they granted this arrangement when it can be remedied. He compared it to a condominium complex in Falmouth with 2 associations which does not currently work well.

Stan Bennett said he agreed with the abutter who said one property owner one vote and nine properties, nine votes.

Tony Calcagni asked for other comments on legal documents. He checked with Ethan Croce that the other miscellaneous arrangements will be dealt with by the applicant.

Ethan Croce said the applicant has represented that she is committed to resolving all these issues. He suggested that the Board check with the applicant to ensure she knows what the Board is looking for with respect to supporting documentation on the public water issue.

Tony Calcagni said they need to return with more complete information regarding water supply including revised estimates from all the contractors and incorporating the new information. He cannot comment on what the difference between the two options must be before they can determine feasibility but he felt it must be a sizeable number.

Ms. Soule asked to what extent the Planning Board would like a more accurate estimate as they would need borings and a full plan to create a really accurate estimate.

Bill Lunt said he is not looking for that kind of an estimate rather a clarification of the numbers that he already has in front of him. Additionally, different estimates have different requirements for what will be put in, they need to determine whether they need a pump station or not. The value of the lot with water on it is significant since there are not such fire suppression issues and additionally they do not have to worry so much about where to locate septics.

Tony Calcagni said it would be good to have a basis for the sprinkler estimate.

Stan Bennett moved to table the item, Bill Lunt seconded. 5-0 in favor.

**7. (Item Withdrawn) Hundred Acre Woods, LLC - 570-578 Blackstrap Road – Request for preliminary subdivision approval for an eighteen lot conservation subdivision. Tax Sheet 90; Map-Lot R08-059-002; Zoned Farm and Forest & RCZO.**

**8. Ridgewood Associates, LLC - Ridgewood Drive - Request for approval of design guidelines and entry sign replacement for the Ridgewood Subdivision. Tax Sheet 310 and 611; Map-Lot R04-026 and U28-011; Zoned Open Space Residential District.**

Ethan Croce summarized the key issue. He noted the applicant was before the Board in April 2009 to request a series of minor amendments to the project; one of the requests was to give Staff authority to make minor changes to the building architecture and the designs that were pre-approved by the Board in 2006. The Board indicated at that time they were not comfortable granting Staff that kind of authority without some specified parameters in the form of residential design guidelines which could be used as a gauge to analyze the proposed changes with respect to architecture that the applicant would be making. The applicant did hire Port City Architecture to create a set of design guidelines which they have run those by the Town's landscape architectural peer-reviewer Tom Emery who has signed off on the design guidelines. The only minor clarification question is that the applicant is requesting staff to be able to approve minor unit footprint relocations and since that is a separate issue it might be helpful to have a little clarification of what they might entail to give the board a better idea of that.

Bill Lunt asked if there are any limitations because of the contract zone on the sign.

Ethan Croce said there were not.

Andy Hyland, Port City Architecture, said the question is primarily about minor unit relocation. He noted there were three conditions - they know where everything is but the units themselves may be better off if they could move them by a few feet depending on the on-site conditions. Also, if someone wanted to enlarge their deck a little or move them slightly they hope that this could be dealt with directly through Staff. The third request was if they substituted a smaller unit where there was a bigger unit footprint, if it stepped outside of the bigger unit footprint, they would like to give Staff the opportunity to make those calls rather than coming before Planning Board.

Bill Lunt asked Ethan Croce whether he would be comfortable for Staff to work within those parameters.

Ethan Croce said he would be happy to make a determination under his own discretion whether or not an issue would have to come back before the Board.

Bill Lunt said he is comfortable with this and noted they would still have the ability to through it back to the Board if they felt it was a more significant issue.

Stan Bennett said he agreed with Bill Lunt and said he has no issue with the sign change.

Ethan Croce said he was hesitant in drafting conditions as he was unsure whether the Board would vote on the matter and as such he feels the applicant is hoping that the issue be left open-ended for Staff to use their judgment and if they are not comfortable with that then they can refer it to the Planning Board.

Tony Calcagni asked what would happen in 15 years when none of these current members are still on the Board.

Ethan Croce said revised plans would need to be submitted, either at some specified interval if this is going to occur on somewhat frequent basis. He suggested that the Board could require revised Mylar or at least revised plans at the office every time a revision is made, also he felt that this could be discussed with the applicant. He noted it could be quite laborious depending on how many changes are made or they could opt to resubmit a plan at a fixed interval.

Mr. Hyland said there would be condominium documents and precise documents about what people own; he noted that when relocation occurs there will be a document that describes any changes that occur with a GPS location. He feels this will occur in due course as there will be legal documents so that people know what they bought.

Tony Calcagni asked about the project design guidelines and if the mention that Staff can agree on minor footprint relocation.

Mr. Hyland said this passage is listed under 'use' and noted there are some other guidelines they might use. The units are quite close to each other so Staff can make decisions by interpreting the guidelines and can implement screening or sections of fence - he feels there are some other criteria that would help make those decisions.

Tony Calcagni said this might work as proposed.

Rebecca Casey said there are reasonable guidelines to check against and provided Staff are comfortable then they can approve it.

Tony Calcagni asked for public comment, he closed the public comment.

Bill Lunt moved to approve the item, Bernard Pender seconded. 5-0.

Meeting adjourned 8.25pm

Respectfully submitted,

Robert Lynn

Recording Secretary