

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, FEBRUARY 2, 2010, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

MEMBERS PRESENT: Bill Lunt (Chair), Bernard Pender, Stan Bennett, Becca Casey, William Brogan (alternate)

MEMBERS ABSENT: David Fenderson (Vice-Chair)

STAFF PRESENT: Ethan Croce (Senior Planner)

The meeting was called to order at 6:31 pm.

Bill Brogan was appointed as a voting member for the meeting.

1. Approval of January Meeting minutes

Becca Casey moved to approve the minutes; Stan Bennett seconded. Motion carried 5-0.

Administrative Action Item

2. Wal-Mart Stores, Inc. – 206 US Route 1 – Request for re-approval of a site plan amendment relative to certain site improvements and extending Hat Trick Drive. Tax Sheet 320; Map-Lot U52-002. Zoned SB1 and Village Center Overlay.

This item was moved to the regular agenda at the request of Bill Lunt.

Agenda Items

2. Wal-Mart Stores, Inc. – 206 US Route 1 – Request for re-approval of a site plan amendment relative to certain site improvements and extending Hat Trick Drive. Tax Sheet 320; Map-Lot U52-002. Zoned SB1 and Village Center Overlay.

Ethan Croce explained that the item has been before the Board numerous times, most recently in February 2009. They received approval for site improvements behind their store in 2003, including extension of Hat Trick Drive. The intent was to provide a two way thru connection from Depot Road to Clearwater Drive. This was originally so that Wal-Mart could build an outdoor garden center in a side parking lot and replace the parking with parking spaces behind the store. They have since decided not to pursue this plan. While these site improvements are no longer technically necessary, all parties have indicated their intention to move forward. Site plans are only valid for one year, and so they are back before the Board for a site plan re-approval.

Lawren Pratt of Sain Associates, representing Wal-Mart, said the plans have not changed since last year. They are looking for an approval to extend the permit for another year. They are ready to sign a contract, but the landlord is still trying to obtain financing from their lender.

Stan Bennett asked if the landlord has the lender's approval now or will they have to extend it again next year.

Mr. Pratt didn't know what the status of the financing is.

Bill Lunt observed that the original approval was granted before he was appointed to the Board. He is concerned that this is an ongoing situation and nothing seems to get resolved. He said that Wal-Mart has been using outside storage anyway, despite their claims that they were not planning on

using it that way anymore. He voted to approve the extension last year, reluctantly, and is reluctant to extend it another year and see outside sales and storage again this spring in direct violation of the site plan.

Bernie Pender asked if they were obligated to extend for 12 months, or can they extend for 5 months and then see if they are using the outdoor storage space.

Bill Lunt thought setting a time limit would be difficult. He would prefer to extend it for a year.

Bernie Pender thought they would know at that time whether they would have the funding or not.

Mr. Pratt didn't know when the funding would be worked out.

Bill Lunt asked Ethan Croce if they ever have extended an approval for less than a year.

Ethan Croce said Section 9.6 defines approval as for a year.

Stan Bennett wondered if they could couch an extension based on the applicants' agreement that they will not be in violation of the zoning ordinance by placing materials outside.

Ethan Croce thought they could tailor a condition that the approval would be contingent on the applicant not engaging in outdoor sales and storage.

Mr. Pratt said he was very surprised that they were doing that; he thought the ordinance didn't allow it. He asked if they have done that since this time last year.

Bill Lunt said they have. He feels less comfortable granting the approval this year due to that activity last year.

Mr. Pratt said he is the engineering consultant and can't address that specific issue, but he can relay that requirement to the applicant.

Becca Casey observed that the Town wants this connector because of the Village and to connect Hat Trick drive. She wondered if it is reasonable to question the incentive of the applicant based on the fact that the reason they needed to do this project is gone. Is it a goodwill piece, will it improve the conditions, or are they not driven to do it?

Bill Lunt said the piece that has been removed is the building of an outside enclosure. If they are going to continue with outdoor sales and storage they still need to do this project to replace the parking that they take when they do that.

Mr. Pratt thought that was so.

Bill Lunt said that if it comes back again next year, he will push to have the whole site plan reviewed.

Stan Bennett moved to approve the application, with the condition that the applicant refrains from any outdoor sales or storage that negatively impacts on parking until such time as the additional parking spaces have been provided.

Bernie Pender seconded.

Public comment period opened; no public comment.

Motion carried 5-0.

3. Christman Pool –123 Gray Rd -Request for pre-application sketch plan review for an addition to an existing commercial building. Tax Sheet 371; Map-Lot U43-003. Zoned VMU and Route 100 Corridor Overlay.

Ethan Croce presented the key issues. The first issue is the applicability of the Exit 10 Design Guidelines. In 2004 the only guidelines applied to this site plan were for the architecture and the sign for the new 1800 sq foot building. Section 9.7 i of the Zoning Ordinance states that “*All Site Plan Review applications within the Corridor Overlay District shall meet the requirements of Section 3.10 of the ordinance, and, wherever possible, follow the recommendations contained in the Exit 10 Design Guidelines.*” Second, the Board should determine whether peer review should be conducted on this project and what design guidelines should be used for review. Peer review was not required in 2004, and the Board may wish to determine the need for review when it sees a full site plan review. Third, the site plan review ordinance requires no parking within front setbacks; there is no waiver authority for the Board for this provision in the VMU district. There are three parking spaces shown on the site plan that lie within the front setback. Staff recommends that these parking spaces be removed and replaced with landscaping per the buffering requirements of the overlay district. Fourth, minimum off-street parking standards do not call out how many spaces should be required for the storage building. The Board should confer with the applicant as to the need for parking for this building. Fifth, the applicant has requested a waiver on the need for a landscape architect. Finally, there appear to be a few minor deviations from the 2004 approved site plan and those should be cleaned up, so that what is on the site plan reflects what is on the ground.

Art Colvin of Associated Design Partners explained that there are two buildings on the site. The rear building is currently a mixed use retail/office and the owners would like to put a second story on it for 1500 sq feet of office space upstairs and 1500 sq feet of retail on the first floor. The front building will continue to be used as storage. He used the approved site plan from 2004 to generate the current proposed site plan which explains the discrepancies between this plan and what is on the ground. They will confirm what is on the ground before moving forward with a new plan. He read the Planning Board minutes from the 2004 approval and didn't find any information as to why the Board allowed the parking in the setback to remain. They calculated 15 spaces required; there are 22 on the site. There are one or two people who work in the storage building daily; if the Board assigned two spaces to that building, that still leaves them with 5 extra, so losing three spaces in the setback would still allow them to meet the parking requirements while conforming to the overlay district. Regarding the waiver on the landscape architect, they don't anticipate much site work going on. There won't be any grading, and maybe some minor landscaping. They felt it is minor.

Bill Lunt asked if this addition will double the retail space. Mr. Colvin said it would.

Bill Lunt thought that might require some landscaping. It is a small project and he would be willing to grant that waiver but he would want to see what additional landscaping they are planning

Mr. Colvin said that Gnome Landscaping will do their landscaping plan, even though they don't have a landscape architect.

Becca Casey was in favor of granting the waiver.

Bernie Pender would want to see what they will do with parking for the increase in the retail space before weighing in on the waiver.

Stan Bennett had no problem with the waiver.

Bill Brogan was in favor of the waiver; he wanted more detail on pedestrian access to the expanded retail space.

Stan Bennett asked Ethan Croce to repeat his take on the applicability of the Exit 10 guidelines.

Ethan Croce said it states in 9.7 (i) that all projects in Route 100 Corridor Overlay shall meet the requirements of section 3.10 of the ordinance and wherever possible follow the recommendations of the Exit 10 guidelines.

Stan Bennett thought the best way was to have a peer reviewer look at the site plan to determine what would need to be done to the site to bring it to Exit 10 standards.

Ethan Croce said peer review is typically used to evaluate how the project meets the design guidelines. If there are shortcomings the reviewer would point those out.

Stan Bennett thought using the peer reviewer might be a good compromise with not using a landscape architect.

Mr. Colvin asked if the parking in the front setback was the only issue that conflicted with the design guidelines.

Ethan Croce said the parking spaces are in conflict with the ordinance. He has not done a review of the project in relation to Exit 10 guidelines. He detailed some of the categories that would be addressed by the guidelines.

Bill Lunt asked whether some of those guidelines were addressed in the original site plan.

Ethan Croce said in 2004 the architecture and wall sign of the new building were reviewed under the guidelines, but other categories were not mentioned and there was no peer review.

Bill Lunt remembered that issues were not addressed in 2004 – the Board felt at the time that the building was isolated from everything else so the looks were important but the other issues were determined to be not as important, public spaces for example.

Becca Casey said the landscaping shown on the 2004 plans was not installed. She would like to see what was proposed before and ensure that it is installed as well as new landscaping where the parking spaces are removed.

Stan Bennett asked about the history of the Exit 10 guidelines.

Ethan Croce said initially they were intended for the West Falmouth Crossing only, but in early 2000's they were extended to include the entire Route 100 corridor from Cumberland to Portland. It was mainly meant to capture the area from Leighton Road to Falmouth Road.

Stan Bennett thought that including a condition requiring that the landscaping approved in 2004 be installed might cover it; he didn't want to bog it down with a peer review.

Bernie Pender and Bill Brogan agreed with Stan Bennett.

Bill Lunt asked how they make sure what didn't get done last time gets done this time.

Ethan Croce said it is the applicant's responsibility to update plans; the town's site inspector will go out and make sure that the plans conform to what is actually built.

Bernie Pender asked if the inspector has been out there in the last six years.

Ethan Croce thought probably not.

Bernie Pender asked what guarantee they had that it would be done.

Mr. Colvin said it is an enforcement issue with the town; he would talk to the owners and tell them that it has to be done.

Bill Lunt said the new plan should be done around the old site plan. He suggested that before they submit a new plan to the Board that they bring it to the staff. If it comes before the Board incomplete, it likely won't be heard.

Mr. Colvin said they will do an existing conditions plan before they do a full site plan. He will discuss the three parking spaces in the setback with the owner. It will be a small price to pay to conform to the zoning district.

Ethan Croce asked about parking assigned to the storage building.

Stan Bennett said the applicant has said that there are two employees in that building, and it seems good to assign two spaces to that building.

Becca Casey said when she looks at the site plan the front building looks like the retail building. With all the parking in front, there are pedestrian issues with people parking up front and walking past a loading zone and through the driveway to the retail building. There will be a draw for people to park in the back to be closer to the retail space. She asked about four parallel spaces shown on the aerial photo and asked that they consider that people will want to park as close to the retail building as possible and either pull parking to the back or address pedestrian issues in their site plan.

Mr. Colvin said he will ask the owner if he can do some of the retail in the front building to be closer to the parking.

Becca Casey thought the front building was geared more to storage with the high roof, bay doors etc.

Bernie Pender said if they are intending to pull the showroom forward it would change the whole configuration of the project.

William Brogan suggested designated customer spaces so employees are not parking in them.

Bill Lunt thought the bulk of the parking on the site is employees. He thought allocating two spaces for the storage building wasn't totally accurate because they have a lot of company trucks on the road. The employees have to park somewhere. They need to know the number of employees so the parking requirement is based on that number as well as the number of customers. He asked about the area behind the rear building shown on the aerial photo. He didn't remember any use of that back area as part of the 2004 plan.

Ethan Croce said he doesn't know what that back area is. It is not part of the plan.

Bill Lunt said that may be an issue they need to address.

Ethan Croce said in 2004 they required the sign on the front building to conform to ordinance standards and Exit 10 design guidelines. The question is whether the sign on the rear building should come to code and conform to Exit 10.

Becca Casey asked if the sign on the rear building will be a second main sign.

Ethan Croce said the site plan ordinance requires that the site be brought up to current codes and into conformance with the ordinance. The current sign exceeds what is allowed in the current ordinance. The question is whether it should be upgraded to comply with Exit 10 guidelines.

Stan Bennett said if it needs to be upgraded anyway, they should do it right. Becca Casey agreed.

Bill Lunt thought the rear building should look similar to the front building.

Mr. Colvin said that is the intention. The rear building will look just like the front building.

Bill Lunt said the Board needs to see the planned signage on the rear building. He reiterated that he didn't remember the part in back of the rear building being on the 2004 site plan.

Bill Brogan asked how the resource protection zone affected this parcel.

Ethan Croce said the parcel itself is a large parcel; the site plan doesn't detail the whole parcel and no part of the built site is within the resource protection zone.

Bill Lunt asked if the area behind the small building enters the resource protection zone.

Mr. Colvin said he will look into that.

4. (Item Tabled) Cianchette Family, LLC – Howards End Drive - Request for termination of the Sherwood Forest Subdivision and approval of a two-lot private way. Tax Sheets 60 and 140; Map-Lot R03-023-002 to -014. Zoned Farm and Forest and RCZO.

5. Norway Savings Bank – 266 US Route 1 – Request for pre-application sketch plan review for a new bank branch. Tax Sheet 240; Map-Lot U58-010-A1. Zoned Business Professional and Village Center Overlay.

Ethan Croce addressed the key issues. The applicant is requesting a dialogue on three issues: 1. internal circulation: this was raised by both of the peer reviewers (traffic and landscape) as well as the Board and staff at the last sketch plan in November 2009. The applicant has a new proposal to present to the Board regarding this issue which seems to be an improvement on what is in the packet; 2. underground utilities: the applicant wants to know if the bank will be solely responsible for moving the utilities underground despite the fact that they share the service with the Foreside Tavern; 3. pedestrian circulation: connections are required by the Village Center Design Guidelines both to neighboring sites as well as to Route 1. MMC is apparently unwilling to negotiate a connection to their property so those connections have been removed from the plan. Both peer reviewers are advocating for pedestrian connections out to Route 1.

Lee Allen of Northeast Civil Solutions said the big question was if they could make this entrance better. After consulting with Mr. Errico, town staff and their own traffic engineer, they have shifted the entrance 12 feet south toward Bucknam Road, to line up better with the one-way circulation of the bank. He explained the system of raised concrete islands that will direct traffic between the Bank and the Foreside Tavern. They found that there is a pole with three way service that provides electricity to both the tavern and the current Mobil station. They wanted to confer with the Board on whether they are responsible for moving the service for the tavern and the bank underground. Regarding the pedestrian connection he said there currently is no good place to go on Route 1 for pedestrians and they would want to discourage pedestrian access to Route 1 in that area. They have extended a walkway to the edge of the right of way so that, when there is a widening of Route 1 someday a safe connection could be made then. They have also extended a walkway to the back corner of the lot for future connection to the MMC property.

Bernie Pender asked about an issue with setbacks and with who owned the property along Route 1. That property doesn't belong to the bank for placing sidewalks.

Ethan Croce said that property is owned in fee by MMC, and the applicant has an easement for access. The applicant has filed an application with the Board of Zoning Appeals (BZA) for an appeal of the code officer's decision that a variance for the currently existing canopy doesn't apply to a building and, if that is not granted, a variance for a reduction to a 30 foot setback. Absent a variance from the BZA the applicant can only place the building 40 feet from their property line, not from the right of way or MMC's property line.

Stan Bennett asked where the peer reviewers suggested the pedestrian connection should be.

Ethan Croce said that Tom Errico didn't suggest a specific location. Tom Emery suggested something similar to what the applicants have done, but further recommended that the walkway wind its way through the current southern entrance to the property, when it is vegetated.

Becca Casey said the existing southerly drive that is going to be removed lines up better with the curb cuts of the plaza across Route 1. In Tom's review he mentioned a direct crossing from the bank's entryway going to the tavern. Where it is located on the new plan seems a better place, considering the location of the tavern's front door.

Bill Brogan asked if there will be a crosswalk or signage from the handicapped accessible spaces.

Mr. Allen said that handicapped spaces don't work in angled parking and the traffic in the back is such that there isn't much concern about a crosswalk.

Bill Lunt asked about the size of the building.

Mr. Allen said it has a smaller footprint than the application presented in November 2009. There will be a second floor with a break room and data room.

Bill Lunt said they will get more vegetation this way. Mr. Allen said that was correct.

Bill Lunt said if they stop pedestrian access at the DOT property line and then they do something along Route 1 it will be on DOT's property. He wondered how they will then go back to the bank to connect the access. If the sidewalk goes to the property line and then stops, the pedestrians are not going to stop. People will keep going and we need to direct them someplace. The connection to the MMC property is going to have the same effect – that's going to make people trespass on the hospital's property.

Ethan Croce said that sometimes what is done in instances like these is a condition of approval that the applicant build out their half of the connection, recognizing that at some point the other site will come before the Board and will be required to complete their side of the connection. They could either be required to build their portion now, or when the full connection is built.

Bill Lunt thought the applicants for the recent bank on Clearwater were asked to complete a sidewalk that wasn't on their property.

Ethan Croce said in that case they are being required to build an extensive sidewalk to connect the Route 1 sidewalk to the Tidewater sidewalk. It was in everyone's best interest in that instance for the applicants to partner with the Town to install the sidewalk in the right-of-way.

Bernie Pender asked if they had discussed partnering with DOT on the sidewalks.

Mr. Allen said they have had a discussion with DOT with regards to landscaping in the right of way. They have not discussed sidewalks with them.

Ethan Croce said most of the sidewalks along Route 1 are within the right-of-way. DOT has had a favorable view on installing sidewalks on Route 1 in the past.

Bill Lunt asked if the DOT right-of-way on the Bucknam road is high enough on the hill to carry a sidewalk up to the MMC driveway. Mr. Allen thought it went to the top of the hill.

Bill Lunt thought it would be worthwhile to bring the sidewalk around and make it so it could be brought up Bucknam Road at a later date, since they are redoing landscaping anyway. He suggested bringing the sidewalk down to the DOT right of way and letting it wander around in that landscaping.

Mr. Allen said there is a detention pond with a rock-lined outlet. There is a deep gully; it isn't impossible but it would require some culverts.

Bill Lunt said he had a problem creating sidewalks to nowhere.

Mr. Brian Shibles, Senior Vice President from Norway Savings, thought the intention of the comprehensive plan was to focus on pedestrian flow south of Bucknam Road and not here.

Bill Lunt said he agreed, but there is the possibility of dramatic changes across the street and he felt they should do something to make it in conjunction with the property across the street.

Ethan Croce said he couldn't question the policy decisions of past policy makers to include this and the Foreside Tavern properties in the Village Center Overlay District despite the physical breaking point of Bucknam Road.

Stan Bennett felt they have done a good job addressing the internal circulation issue. Bernie Pender agreed.

Becca Casey wasn't sure everyone would use it properly, but it is a good job.

Bill Brogan felt it was an improvement; he wondered about directional signage at the entrance to the existing restaurant to clear up the access. Mr. Allen thought that was something they could accommodate.

Stan Bennett said he is a big advocate of burying utilities. Even though it's somewhat unfair to have them bury the utilities for their neighbors, he would like to see whether it exceeds the 20% threshold.

Bernie Pender, Becca Casey and Bill Brogan agreed.

Bill Lunt asked Mr. Allen if it reaches the 20%. It seems unfair that the tavern not share it, but the Board has no way to require it.

Mr. Allen said it comes close to 20%.

Bill Lunt encouraged them to come back with something creative regarding the sidewalk. If they are going to be working in the DOT right-of-way area anyway, now would be the time to do either the sidewalk or install landscaping that would accommodate the sidewalk later. It is part of that whole Route 1 district, and even though it is on the north side of Bucknam, it is still part of it. Creating sidewalks to nowhere will create an issue. It is a difficult site but they have addressed it very well.

Becca Casey has some notes on the architecture. She observed that there are three gables: two that are serving the upstairs room and one fake one. She thought maybe they don't need the fake one. On the front portico they have three windows, one of which is false. On the back the windows are half-height, with brick on the bottom. She thought they could use a similar detail instead of the fake window in the front.

Bill Brogan said the stop going into the bank on the entry way is essentially a three-way intersection. It would improve access into the site if traffic is allowed to free flow into the bank.

Mr. Allen said it was a traffic calming measure to get people to slow down.

Bernie Pender said that with the free flow of traffic with the restaurant you have to have some measure to slow people down or it would be chaos.

Becca Casey observed that it is chaos there now.

Bill Lunt said it would be helpful if they can address the issue of traffic coming out of the restaurant and why they have what they have. He asked what happens if they don't get BZA approval.

Mr. Allen said the setback issue was tabled at last week's BZA meeting; the off premise sign was approved. The Code Enforcement Officer wasn't at the meeting to clarify his position and there was confusion on the part of the Board.

Other issues

Bill Lunt asked about any issues in the ordinance that Board members have identified as troublesome or needing amendment. He would like to have a discussion at next months' meeting where the Board can discuss their thoughts.

Stan Bennett left the meeting.

Bernie Pender felt that the ordinance is more of a blanket, and when these individual projects come forward their hands are sometimes tied. There are instances, like tonight with the sidewalk issue, where there should be some more flexibility, but there are other places where there is some waiver ability that don't make sense.

Bill Lunt said he isn't advocating wholesale changes, but is interested in identifying places where minor changes could be made to make it easier for the Board and applicants to make better projects.

Becca Casey said she sits on the board of the Portland Society of Architects. The advocacy committee of the society has worked with the City of Portland on refining zoning guidelines and were asked to draft a template of design guidelines for the city to use. That committee is willing and eager to do a review, discussion and draft recommendations on refinements to the Falmouth ordinances.

Bill Lunt thought that would be a Council project. He would like the input from the Board to send to the Council, but they could suggest the organization for the Council to look at.

Ethan Croce said the organization was volunteering to do this for the Town for free; the Council would have to sign off on all changes. He has spoken with the Community Development Director and, to prevent the appearance of stepping on anyone's toes, he could take it to the Town Manager, who has a direct conduit to the Council. If it seems like something the Town is interested in, he could let the Board know.

Bill Lunt has spoken with three of the Councilors, and they seem receptive to the issue that the Board feels that sometimes their hands are tied and they were interested in hearing the Board's input. He was in favor of Ethan Croce's approach.

Meeting adjourned 8:17 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary