

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, APRIL 13, 2010, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

MEMBERS PRESENT: Bill Lunt (Chair), David Fenderson (Vice-Chair), Bernard Pender, Becca Casey, William Brogan (alternate), Heddy Snyder (alternate)

MEMBERS ABSENT: Stan Bennett

STAFF PRESENT: Ethan Croce (Senior Planner)

The meeting was called to order at 6:33 pm.

Bill Brogan was appointed a voting member for the meeting.

1. Approval of March Meeting minutes

David Fenderson moved to approve the minutes; Becca Casey seconded. Motion carried 5-0.

Administrative Action Items

2. 46 Depot Road, LLC – 46 Depot Rd. - Request for site plan re-approval for an office building renovation & expansion. Tax Sheet 320; Map-Lot U24-006; zoned SB1 & VCO.

3. Norway Savings Bank – 266 US Route 1 – Request for site plan amendment for signage for a new bank branch. Tax Sheet 240; Map-Lot U58-010-A1. Zoned BP & VCO.

4. O'Natural's – 240 US Route 1 – Request for site plan amendment to change existing signage from O'Natural's to Stonyfield Café. Tax Sheet 240; Map-Lot U24-005-001. Zoned SB-1 & VCO.

Items approved 5-0.

Public Hearings

5. Public hearing on proposed amendments to the Subdivision Ordinance and Zoning and Site Plan Review Ordinance relative to the protection of natural resources.

Public comment period opened. No public comment.

The Board held its deliberation on its recommendation at the end of the meeting.

Agenda Items

6. Falmouth Rod and Gun Club – 358 Gray Rd – Request for approval of an after-the-fact fill permit. Tax Sheet 190; Map-Lot R06-059-A. Zoned Farm and Forest, Rt. 100 Corridor Overlay & RCZO.

Bill Brogan asked to recuse himself as he worked on this project as an employee of Acorn Engineering.

David Fenderson moved to allow him to recuse; Bernie Pender seconded. Motion carried 4-0.

Heddy Snyder was appointed as a voting member for this item.

Ethan Croce presented the key issue. In July 2009 the applicant was before the Board for an after the fact fill permit. The Board denied the application by a 3-2 vote, and asked the applicant to provide additional information. The applicant has submitted a report from Acorn Engineering and the key issue is whether the Board feels that the report addresses the concerns raised last summer.

Bernie Pender asked Ethan Croce if the work that was completed was something that was approved.

Ethan Croce explained that they are seeking approval for the placement of fill in 2002, without a permit, in order to construct an additional shooting range. The applicant has stated that they are not using that area.

Jim Mullin, vice president of the Gun Club, said that 8 years ago the club went forward in building a shooting range without a permit. They acknowledge that they were wrong. The work was stopped and the area was stabilized. They are now trying to get to a place where they are not in violation. They are not using the area, and they understand that they cannot use it until they get an approval from the Town. There was a concern raised about drainage and about a detriment to the abutter's property. Acorn Engineering has done a thorough job, even suggesting adding additional riprap, which the club has done. The engineer went out to the property yesterday and has sent an email certifying that the club has met and exceeded the recommendations.

Bill Lunt asked if the Town has had someone out to the property; Ethan Croce said no.

Mr. Mullin said Cumberland County Soil and Water has been out there.

Bill Lunt asked about the deep channeling of water around the riprap.

Mr. Mullin said they didn't find evidence that the riprap was being missed when they went out. They have improved the riprap by installing larger riprap and extending the area. Acorn has looked at it, and CCSWD was with them at the time.

Public comment period opened.

Todd Kelly of 9 Silky Way was at the property yesterday and took some photos. He gave the Board a packet of photos. He discussed each picture in order, showing how the pictures from last year compare to this year. He said that the applicant hasn't done a good job of either installing riprap or stabilizing the site. He felt there was water flowing onto his property and he felt it was time for a site walk.

Bill Lunt asked when the repair was done.

Mr. Mullin said the repair was done when the ground was frozen so that the trucks would not do any more damage. He guessed it was some time in January. C&E Earthwork brought in a load of riprap. There was some dirt and grass, but there was no sand.

David Fenderson asked who did the work.

Mr. Mullin said he did the work. That was why they wanted a professional come to inspect it.

David Fenderson said the project required silt fencing.

Will Savage of Acorn Engineering said the goal of the riprap channel was to stabilize the area, thereby mitigating the need for any silt fence downstream. They also provided an erosion control report for any area remaining disturbed. They did not observe any disturbed areas during their site walk.

David Fenderson said that there was a requirement for a silt fence in the report by OEST Associates in 2009.

Mr. Savage said the outlet was stabilized since then. ¾ inch stone was placed originally, but it was changed to riprap, which is more heavy duty and better suited to any stormwater coming off the site.

Mr. Kelly presented printouts to the Board of what the club looked like historically. The south bank berm is still eroding today. He took a picture of it on 4/12/10.

Jack Kelly, an abutter, said that the engineer reviewed the site days after a storm. Gorrill Palmer told him that the site should have been looked at during a storm. The photos were taken after a less than 1 year storm. He never saw the Planning Board approve anything based on a 1 year storm. It is usually a 25 or 50 year storm. Along the north side there is a road. There used to be a gully next to the road, but they filled it in and the water is now directed toward his property.

Bill Lunt asked when that filling was done.

Mr. Jack Kelly said it has been ongoing since 2001. He showed the Board a drawing of the area to demonstrate the changes made. The club has dramatically changed the whole area. The report states that the easterly flow goes into the area east of the project area, which is his property. There is a 70 foot long, 14 foot wide, and 2 foot deep gully on his property which wasn't there before 2001. The report states that the soils are susceptible to erosion, but the good housekeeping practices of the club would take care of it. It has been 8 years since they were caught and they are still trying to get out of it. There needs to be a site walk. The water isn't settling into the berm. If you are there in a rainstorm, it isn't slow release. The fill estimate of 66 cubic yards only includes the berm, and not all the other work that was done. There was a lot more work than they are willing to admit. Since 2001 the club has bought 3 pieces of adjacent property, but they are claiming that the survey report is too expensive.

Mr. Savage said that they went out to the site 5 days after a 2.1 inch rain event. The day before their visit, a .79 inch rain event occurred, so they were able to observe how the stormwater was working its way through the site. They observed through the use of a transit that it is a low area, and it does puddle and then overflows to the stabilized outlet. The water comes in to the riprap channel through the side and then makes its way to the bottom of the slope.

Bernie Pender asked about the erosion control fabric.

Mr. Savage said it is below the original $\frac{3}{4}$ inch stone and was not disturbed when the riprap was placed.

Bernie Pender said it is no longer visible.

Mr. Savage said that was correct. It is commonly left visible, but it doesn't affect how it works.

Bernie Pender asked about the erosion and sediment control plan where it states periodic review of control measures.

Mr. Savage said when they reviewed the site, they found it stabilized. The plan was provided in case any areas were not stabilized. The report was only included because it is a requirement of a fill permit application.

Becca Casey asked if there are any reasonable measures that could be taken that would have any significant effect on the abutter's property. Reconstruction of the site is clearly not a possibility.

Mr. Savage said the applicants have agreed to allow the area to return to a meadow state, which should help. Previously it was mowed. We are coming out of one of the rainiest Marches on record. There are many gullies in the state that have eroded over the last 20-30 years as storm intensity has increased, which has been documented.

Bill Lunt said one of the pictures presented by the abutter looks a lot like the pictures from last year. It looks like the water still doesn't enter the riprap, which was one of the reasons it was denied last year.

Mr. Savage said the water enters the riprap from the side but then it goes down the channel; it enters the riprap before it goes down the slope.

Bill Lunt asked about the installation of the riprap.

Mr. Savage said that the applicant installed it. It may not meet DOT standards, but it suits the purpose.

Bill Lunt said he has been in construction for a long time, and if anyone installed something like this for him, he would fire them.

Mr. Todd Kelly had a picture that shows a 14 inch scour at the end of the riprap. There is no geotex; they just threw the new riprap on top.

Bill Lunt said that was immaterial at this time.

Mr. Mullin said that they have tried to address the concerns of the abutters as best they can, but he isn't sure they will be able to. They have consulted the Conservation Commission and hired an engineer. They are trying to be good neighbors, and he hopes they have done all they can to address the Board's concerns.

Bernie Pender said this seems almost identical to the application from last July.

Becca Casey agreed. She wondered, if they can't reverse it, what they can do to mitigate it.

David Fenderson said there are two issues – first, what has been done to satisfy the issue from getting worse, and second there needs to be a significant attempt to mitigate the damage that has already been done. What they have done may prevent any further issues, but how do they mitigate what has already been done.

Bill Lunt agreed. He is not comfortable with what has been done here. If the Board approves the fill permit, the work needs to be done the way it is set up. This isn't an enforcement body. He understands that the abutter and the applicant are frustrated. The Board has standards they have to go by, and he doesn't feel that those standards have been met. He would like to have a plan that goes by what they would say on a brand new project. If this were a new project it would never be allowed to be done this way, and the corrections would never be allowed this way either. He wasn't in a position to okay this. He felt it needed a peer reviewed by a third party.

David Fenderson felt there needs to be a significant effort to repair the damage that has been done.

Becca Casey was uncomfortable setting a precedent for this kind of project. She would like to see some gestures that they are going to try to improve the situation.

Bill Lunt felt Cumberland County Soil and Water missed the boat on this and the Board needs someone else. He stressed the need to mitigate the damage done.

David Fenderson said they need to make sure the damage was caused by the fill not being done the right way.

Public comment period closed.

Ethan Croce asked the Board to be extremely explicit in what they want the applicant to do. Last July the Board had specific questions that they want answered. If there is going to be a peer review, who should do it and what should they review. If damage is going to be repaired, what damage specifically needs to be repaired. He also said maybe a site walk would be appropriate for the Board to consider.

Bill Lunt suggested they table the item. He agreed with a site walk.

David Fenderson said the peer reviewer should say whether the work that was done today will remedy any further problems. Also, the peer reviewer should look at the damage that has been done and give the Board some sense as to the cause. If the damage was caused by the fill being put in, not being put in the right way, and/or not being stabilized the right way, then the abutters deserve some mitigation. If the peer reviewer says it is inconclusive, that puts this in a different light. He didn't feel that they have all the facts. He also agreed with a site walk.

Ethan Croce asked David Fenderson to call out specifically what damage he was referring to.

David Fenderson referred to the photos that had been submitted by the abutters.

Bill Lunt said one of the issues is the scouring that seems to be continuing. If there is still scouring, they need someone to tell them how to stop that from happening.

David Fenderson said that he thought the club might have put more effort into placing the riprap, knowing how contentious this issue has been.

Becca Casey agreed with a site walk.

Bill Lunt thought they should have the peer review before the site walk takes place.

Becca Casey said there was never a full engineered plan done, that they can compare to what was actually done. They have a few sketches, which are not to scale. She wanted a standard that they can compare it to.

Ethan Croce asked who they would want to do the peer review. Typically they use CCSWD for this.

David Fenderson, Bernie Pender and Bill Lunt wanted a different pair of eyes on this.

David Fenderson commented that the Board needs to focus on the specific application at hand, and not on what may have happened on other parts of the site.

Bill Lunt said the damage still seems to be continuing, and that is his issue.

The Board clarified that there would be an engineer appointed by the Town to examine the area that was affected and see what needs to be done to properly and permanently stabilize the area. The review will also determine if the damage was caused by the berming not being done the right way, and/or the fill not being done the right way. The Board would expect mitigation if that is the case.

Mr. Mullin thanked the Board.

Mr. Jack Kelly said they would like to have a chance to discuss this with the engineer.

Bill Lunt said the staff would be in contact with Mr. Kelly, as the peer reviewer would be appointed by the Town.

David Fenderson asked Mr. Kelly to focus his attention on what is germane to the application at hand. Bill Lunt specified that it is the berm issue they need to focus on.

David Fenderson moved to table the item; Becca Casey seconded. Motion carried 5-0.

7. Andrew Hagerty - 28 Falmouth Rd – Request for a private way to serve two lots. Tax Sheet 310; Map-Lot U25-016-001. Zoned RB & RCZO.

William Brogan returned as a voting member.

Becca Casey disclosed that she has had conversations with both of the abutters as well as the applicant. She is friends with all of them. Bill Lunt said he has known the parties in question for a long time as well. Neither felt that there was a conflict of interest.

Ethan Croce explained that this is an application for a two lot private way. Staff has asked the applicant to verify that the seasonal drainage does not qualify as a stream; additional setbacks and buffers would be needed if it did. Tony Hayes requested additional detail on the ditching as well as more information on the pond outlet, and the applicant should clarify that the wetland impact does not require DEP approval.

David Titcomb of Titcomb Associates presented the application. The project generally slopes away from Falmouth Road toward the pond, and then to the southeastern corner of the parcel. Net residential calculations show that it could support 3.22 lots. The minimum suitable building area is right around 75% for each lot. They are proposing a 16 foot travelway that would narrow down to 12 feet past the driveway of Lot A, as is commonly done. There will be 3470 sq feet of wetland disturbance, plus an additional 250 sq feet of impact from some remedies. Lot A would have public water and sewer, with Lot B serviced by private septic. There are no slopes greater than 25%; the steepest slope is 7.5% where the road comes in. Tooth Associates verified that the pond outlet doesn't qualify as a stream. He explained that the pond was man-made for recreational purposes sometime in the 1970's. He indicated the outlet and a ditch line, which goes easterly. The applicant and the abutter have met and come up with a compromise that will reduce the stormwater from the property. He handed out additional information.

Bill Lunt asked where exactly the travelway would narrow down.

Mr. Titcomb said it would narrow down to 12 feet after the driveway to Parcel A. The location for that hasn't been determined.

David Fenderson asked why Parcel B didn't have public sewer.

Mr. Titcomb said they would have to pump up to it. It is a cost issue, and it is not a good situation if the power goes out.

Al Palmer of Gorrill Palmer explained that they did a site visit yesterday with Mr. Hagerty and the Shaws to review the Shaws' concerns. He showed on an aerial photo the proposed location of the road and the location of the pond. There is no restriction that regulates the flow out of the pond when it rains. As the outflow coming from the pond works down the drainage channel and takes a hard right turn along the property line with the Shaws it overflows the channel and flows over the field. They are proposing building a berm across the outlet of the pond, and putting in a pipe with a regulated outflow that would allow the pond to build up

during a rain event and then slowly outflow. This will reduce the outflow of the pond by 90% during minor rain events.

Bill Brogan said he reviewed the channel from the road. It is fairly small down by the road. If they are allowing less flow over a longer period of time, that will expose the channel to more flow than when it floods.

Mr. Palmer said the pond is intercepting groundwater. They observed discharge yesterday and there hasn't been any rain that would account for that. The lower section won't see any more flow than it sees today.

Bill Brogan asked if they are seeing more of a base flow.

Mr. Palmer said there are sections where it completely disappears. There are no continuous sections that would lead to it being classified as a stream.

Becca Casey wondered if the applicant had asked about using Checkerberry Lane for access.

Mr. Hagerty said he didn't own that land. That road is narrow and didn't know if the owners would allow him to do that.

Bill Lunt explained that in order to obtain frontage for Lot B the applicant needs a 50 foot right of way, and he didn't think Checkerberry was wide enough.

Mr. Hagerty said it is 25 feet wide.

Bernie Pender said it looked like the abutter's driveway is going into their right of way.

Mr. Titcomb said there is a slight encroachment. Mr. Hagerty said he is fine with it.

Bill Lunt asked about any grading specifications for this application.

Mr. Titcomb said if you look at the profile it very closely follows the finished ground. They have submitted plans since the deadline with finished grades.

Bill Lunt said the cross section shows the roadway ditch at 1 foot deep, and it should be 18 inches. Mr. Titcomb said that has been corrected.

Public comment period opened.

Phil Kaplan of 73 Lunt Road indicated his property on the plan. He takes no issue with the development aspect; it is in keeping with the density in the area. He is concerned with the environmental impact. This seems aggressive. He handed out photos to the Board showing large amounts of water in the wetlands identified on the map. This isn't considered an actual stream, but it is wet there most of the time. He knew this didn't qualify as a vernal pool, but he thought the definitions are being looked into and potentially expanded. He said water comes from everywhere to the pond, as the lowest lying area. He questioned whether this pond was man made; he thought it was always wet in this area, and this development is very close to what may be a natural waterway. He wondered if there was some kind of variance the Board could consider for access off Checkerberry Lane, which would save the applicant a lot of money, and prevent the site from being decimated.

Mr. Galyn Shaw of 214 and 216 Middle Road said he has lived in the area since 1955 and can verify that there was not a pond there before the mid 1970's and it was not wet there. He used to walk it as a kid.

Mr. Jim Mullin of 22 Falmouth Road said the concerns about water are legitimate. He was glad to hear about the measures they are proposing. He is concerned that this waterway, if it is relocated, would cause flooding. He would want some kind of assurance that every reasonable effort would be made to maintain the way that water flows. He said that 14 years ago there were deer there, but there has been a lot of development in that area and it isn't used by deer as much now. He doesn't see a huge detriment to the area with this proposal.

Caroline Healy-Estes of 34 Falmouth Road is concerned with the private way through the wetlands. She wondered if Checkerberry Lane could be used as access.

Bill Lunt explained that it doesn't meet the criteria to provide access, and there is no way to waive that.

Mr. Hagerty said he is trying to affect nature as little as possible. They want the impact to be small.

Public comment period closed.

Bill Brogan thought it was a good approach to look at detaining the stormwater. His concern was the longer intensity of base flow going through the small channel.

Bill Lunt asked if the Town requires that Cumberland County Conservation look at this.

Ethan Croce said the Town doesn't require it, but the Board could ask for it.

Becca Casey was a little concerned about the proximity to the pond and the wetlands.

Heddy Snyder asked if the wetland impact would require a DEP permit.

Bill Lunt asked why the email says 4600 sq feet and Mr. Titcomb is saying 3400.

Mr. Titcomb said that the actual wetland impact is 3700 sq feet, which is under the 4300 sq feet that would trigger DEP permitting. There is an additional 120 sq feet from what was proposed to do the channel work.

Bill Brogan asked about any interconnection between the abutter's driveway and the proposed road.

Mr. Hagerty said he offered that to the Mr. Lewis but he wasn't interested at this point.

Bill Lunt asked if that would require an amendment to this plan if they did it in the future.

Ethan Croce said yes, but since the road would be 16 feet wide at that point, it wouldn't require any additional construction.

Bill Lunt asked if they have checked to see if the wetland is not a vernal pool. Mr. Titcomb said they have.

Bill Lunt said that the solution they have designed with the Shaws' makes things better, not worse. He would rather Lot B have sewer instead of septic, but he understands the issue. He was pleased that they have tried to have the least amount of impact on the environment.

Becca Casey wanted to make sure that the 50 foot wetland setback does not apply to the pond.

Mr. Titcomb said it does not because it is a manmade pond.

Ethan Croce read the proposed conditions into the record. He added a note to 3c that final grading relative to the pond outlet be provided to the town. He deleted condition 3 d and amended 4 b.

Becca Casey moved to approve the application with the conditions as read and amended; Bernie Pender seconded. Motion carried 5-0.

8. Arber Development – Request for a private way to serve one lot off Longwoods Road. Tax Sheet 70; Map-Lot R01-022-A. Zoned Farm and Forest & RCZO.

Ethan Croce explained that the staff has asked for the total wetland impact for the project, to make sure that DEP approval is not required for the amount of proposed disturbance. Tony Hayes has asked for verification that the low value wetland is not classified as a stream; there is a lot of flow coming out of the larger wetland area. Tony Hayes has also asked for an erosion control plan for the disturbance around that wetland. He spoke about an easement for the septic field located on the abutting property. The Board might also want to consider connectivity, where the applicant controls the abutting property and might want to further subdivide this property in the future.

Bill Lunt asked what the ordinance says relative to a septic field off the property.

Ethan Croce said there is no prohibition. There are provisions in subdivision ordinance that allow off-site septic, to be located in common open space for example, but the private way ordinance is silent on that.

Jay Farthing of Survey Inc., representing the applicant, said the septic is where it is because this is low lying area, and it gets saturated when it rains. The topography rises to the southeast of the site with better soils there. The lot is served by public water. They have asked for a waiver on a nitrate plume study, since there are no wells around the site. They have letters from PWD stating that there is adequate water. A road detail, profile and cross section are not required for a one lot private way. The typical cross section is outlined in the ordinances.

Bill Lunt asked if it is specified on the plan that they are going to follow that typical cross section.

Mr. Farthing said it is not, but it will be added to the mylar. An erosion control plan will be supplied when the applicant applies for a building permit. Tony Hayes commented that, since this is a low-lying area, fill might be required to cover a frost wall or slab. Mr. Farthing said that, using a 3 to 1 slope they could get 7 feet of fill before the building site, so that isn't an issue. He indicated on the plan where there is a wetland area with channelized, intermittent water. The photo was taken after a large rain event. Mr. Farthing went out today, and it is a trickle. There is 2 feet of grade change between the water flow and the bank. Very channelized where the Woods Road is, but it levels out. This area is away from their proposed building site. They will need to put a pipe across that area to the septic area, but there will be no filling in that area. They have proposed some filling of 650 sq feet in order to provide an adequate building envelope. At this point the owner is not pursuing any plans for further development in this area. He indicated on a map the proposed road, proposed building location and septic and its relation to the abutting property. The proposed development will not impede any future development. There is room to put a road across for development in the future, but they are not currently planning more than one house lot. The final location of the sewer pipe will be outlined on the final plan.

Bill Lunt asked if it is customary to use fill to create a building envelope. Ethan Croce said it is not unusual.

Becca Casey asked about the shape of the proposed fill area. She asked what the sharp angle is.

Mr. Farthing said that is what was delineated and flagged by the engineer as the wetlands. They have to fill to reach the 50 foot setback area.

Bill Lunt isn't sure why they would allow them to fill in wetlands in order to meet the 50 foot setback from the wetland.

Mr. Farthing said the DEP allows filling of up to 4300 sq feet of low value wetlands.

Bill Lunt asked if they need a permit by rule for that. Mr. Farthing said yes.

Bill Lunt asked if they would also need a DEP permit put the septic line in those wetlands. Mr. Farthing thought so.

Bernie Pender asked whether these wetlands have been properly identified, delineated, and whether there would be a peer review.

Ethan Croce said this is a key issue. Staff is asking for clarification that the low value wetland is not a stream.

Mr. Farthing said the photo provided by Mr. Hayes was in a full flood state. All the watershed of the area comes through this small channel, and when there is a large rain it floods. If he needs to get a letter regarding the delineation he can do that.

Bill Lunt asked how the layout would allow for a road connection with the building envelope where it is.

Mr. Farthing indicated on the map how a road could be brought across the two sites.

Bill Lunt asked Ethan Croce if there was any issue with intersection separation. Ethan Croce said that only applies to subdivisions.

Public comment period opened.

John Low of 77 Longwoods Road was concerned with the sizing and placement of the culvert. There is a stream that currently bisects his property parallel to Longwoods. There was a culvert that was placed when this lot was cut and there was flooding on his property. He was curious about buffers and limits on tree cutting. He confirmed Mr. Farthing's comments regarding the wetland with channelized, intermittent water.

Bill Lunt asked if the applicant has had contact with the abutters.

Mr. Farthing said no. The owner didn't want abutters to jump to the conclusion that he is planning a large development.

Mr. Low said he thinks there is a well on the parcel to the north. The Graffams off Thomas Drive may have a well.

Mr. Farthing explained where the disposal system is proposed for this lot.

Public comment period closed.

Mr. Farthing reassured Mr. Low that the applicant installs culverts that are more than adequate.

Ethan Croce read the proposed conditions into the record. He added a condition 6, submission of documentation that the low value wetland between the building envelope and the septic system is not defined as a stream under the ordinance. Bill Lunt clarified that this be done by someone certified and qualified.

David Fenderson moved to approve the application with the conditions as read and amended; Bernie Pender seconded. Motion carried 5-0.

9. Andrew Berube – Request for a private way to serve one lot off Stormy Brook Road and a subdivision amendment. Tax Sheet 70; Map-Lot R01-033. Zoned Farm and Forest & RCZO.

Ethan Croce said both the applicant's attorney and the Town's attorney agree that the applicant has the right to do this. The applicant should verify the total wetland impact. Tony Hayes has requested an erosion control plan and has suggested that the road topography due to the raised culvert might benefit from some roadside protection. The proposed septic easement is right on the property line, and an easement would be needed if any portion of the fill were cross over onto the abutting parcel. Staff suggested that the travelway could be modified by being pulled over to the west and shortened slightly to minimize wetland impact. This project will require an amendment to the Stormy Brook subdivision, because the private way will cross over Lot 6.

Bill Lunt asked if this will impact the lot size of Lot 6. Ethan Croce said no, because it is easement.

Mr. Farthing of Survey Inc. said this is very similar to the previous project. They will add a standard road detail as required, and an erosion control plan will be done. The culvert has a permit by rule from DEP and a fill permit from the Town. The size of the culvert was mislabeled – it is 65 inches wide and 40 inches high. The wetlands impact will be labeled on the final plan, but he thought it was around 2,000 sq feet. This will not trigger DEP review. This project will not impact any future expansion of the roadway. They have used a 60 foot right of way instead of 50 feet in case there is a future need for it.

Bill Lunt asked about the reserved extension from Stormy Brook on the plan.

Mr. Farthing said that they purposely left that on the original plan of Stormy Brook for connecting Stormy Brook Road to the adjacent property. The Town did not take fee ownership and 20 years passed. Lots 6 and 7 now own that land. The applicant is utilizing his half and coming 60 feet into Lot 6.

Bill Lunt asked if the paper street was 60 feet wide.

Mr. Farthing said it was. He explained that the northeasterly edge of the proposed right of way is the boundary line between 6 and 7. The proposed right of way is entirely on Lot 6 and is 60 feet wide.

Becca Casey asked about a septic easement.

Mr. Farthing wondered if the bed had to fall within the test pit location. The test pit is 6 feet off the property line. To get the full bed and any associated draining they will have to move the test pit.

At Becca Casey's request, Mr. Farthing indicated on the plan where the septic is planned.

Becca Casey asked if the water comes up Stormy Brook Road. Mr. Farthing said yes.

Bill Lunt asked for the building envelope to be labeled on the mylar. He asked if the filter bed could be moved closer to the envelope.

Mr. Farthing said they could, as long as it met setbacks from the foundation and property line.

Bill Lunt asked how many sq feet of wetlands would be impacted by the roadway. Mr. Farthing said between 2000 and 2400 sq feet. He didn't have the exact number.

Bill Brogan asked if that was an estimate based on the road plan. Mr. Farthing said yes.

Public comment period opened.

Axel Berg of 378 Middle Road said he lives on the north side of Stormy Brook on lot U20-005. He was skeptical of Mr. Berube's long term motivations. He thought there might be a future subdivision in the works. When Stormy Brook was first laid out the 1500 foot road limitation came about, hence the cul de sac. He wondered how many times one can add 1500 feet to the 1500 feet that is already there.

Bill Lunt said that was immaterial to the project at hand. If the applicant decides to move ahead with that, it would be addressed then.

Public comment period closed.

Becca Casey asked why the private way extends so far beyond the building envelope.

Mr. Farthing said that is the minimum required frontage for the lot.

Bill Lunt asked if the Board had the authority to allow them to shorten the actual built out roadway. Ethan Croce said yes. Mr. Farthing said they would be happy to do that.

Bill Lunt asked what they would do with the hammerhead in that case.

Ethan Croce said they could pull it back about 100 feet, and still have the hammerhead in the dry area. He wondered if there was a way to pull the roadway back away from the center of the right of way.

Bill Lunt felt they would have to, to allow enough room in the right of way for the hammerhead.

Mr. Farthing said that if they could back up the roadway 100 feet and have a straight roadway it would fit all in dry land there.

The Board agreed with reconfiguring the roadway to minimize the impact on the wetlands.

Bill Brogan wondered if there should be grading on the plan to show the impact, especially with the culvert. He asked if the impact number includes the culvert installation.

Mr. Farthing said it would be included in the total wetland impact number. It will be far less than 4300 sq feet. The culvert was set on natural grade, so it sticks up about 36 inches above grade. They have ripped it and covered it with erosion control fabric. The grade change between Stormy Brook and that "T" turn around is probably not more than 4 feet of total grade change the entire time. The road bed will be a build up of 15 inches of base gravel and the 2 inches of travel surface on the existing grade. If there is a need for any finished contouring it will just be where they meet that existing culvert.

Bill Lunt asked for them to show grading on the plan they submit showing the shortening of the road. Mr. Farthing agreed. Bill clarified that the actual layout of the right of way will remain the same.

Ethan Croce read the conditions into the record. A grading plan and road profile shall be required.

Mr. Farthing said that the granite monument falls within the right of way, and will have to be moved.

Becca Casey asked about the waiver; Ethan Croce said it is not technically a waiver. The Board will not require the entire length of the roadway to be built out.

Becca Casey moved to approve the application for a private way and the amendment to the Stormy Brook subdivision, with conditions as read by staff. Bill Brogan seconded.

Becca Casey asked about showing the septic field; Mr. Farthing said it will be on the plan.

Motion carried 5-0.

The Board voted 2-3 to take up a new item after 10:30 pm. (Pender, Fenderson, Brogan opposed). No new items will be heard after 10:30 pm.

10. The Waldron Group – 215 US Route 1 - Request for sketch plan review of a proposed redevelopment. Tax Sheet 320; Map-Lot U11-035-A. Zoned SB-1 & VCO.

Ethan Croce discussed the proposed use of the property. The two key issues the applicant needs feedback on are the location of the proposed connector road and the internal connection of driveways. Given the topography between the Dunkin Donuts property and this property as well as the configuration and traffic on the Dunkin Donuts property, it might be a better option to have vehicular connection between Dunkin Donuts and the northerly property with a pedestrian connection between this property and Dunkin Donuts.

Bill Brogan disclosed that he is working as a subcontractor on a project in Portland that Anthony Meunch is also working on. He has no financial gain from Mr. Meunch and he didn't feel it was a conflict.

Mark Sengelmann of ALPHA Architects presented the application. They are reusing the current building with some minor alterations. They have added a three lane drive thru which accommodates 15 cars. There is a signalized intersection at Clearwater Drive, which was only required to be a two lane, but at the suggestion of Tony Hayes they are making it three lanes. The building has some nice existing landscaping along Route 1 with very tall ash trees and a nice buffer along the back property line. They are doing a considerable amount of landscaping around the building, which will decrease runoff. This project will result in a net gain of over 6,000 sq feet of landscaping on the site.

Mr. Tom Greer of Pinkham and Greer talked about the drainage of the site. There is very little subsurface drainage, and no detention or stormwater treatment. The site doesn't meet any current standards, but is grandfathered; they are trying to come up with as light a touch as possible. They do not require a DEP stormwater permit; they may require one for erosion control, but will not trigger any treatment requirements. The current lighting is for a car dealership and is very harsh; they will have a new lighting plan. Pedestrian patterns will be changed to be friendlier to Route 1 and neighboring properties and those paths will have special lighting treatment. They have picked a location for the connector road that is a bit further up on the site because it would be difficult to put a road along the stream created by the 48 inch culvert. Their plan is to leave this back area as parking so that they could tie in to the connector road anywhere along there.

Bill Lunt said the traffic light is not on Fundy Road but at the entrance of this site. It made more sense to him to have the connector road where there is a light. The road can be closer to the creek; buildings can't.

Mr. Greer said they can accommodate that road wherever it comes in. Their plan is to not alter the back section. Most of their traffic will be in the front of the site at the bank.

Bill Lunt asked if they will have to come back before the Board for the use.

Ethan Croce said the ultimate use will either have to be a permitted use or they will have to get a conditional use approval from the ZBA.

Bill Lunt said that any discussion of the service area tonight doesn't constitute approval of the use. He asked if they have enough parking for the potential uses of the unsigned tenants.

Mr. Greer said they have an excess of parking spaces. They would like to keep them at this point to provide flexibility until they have tenants lined up.

David Fenderson asked about power for the site.

Mr. Greer said there is underground power with some overhead lines for the lights

Bill Brogan asked about changing to a white surface on the roof.

Mr. Greer said they typically try to do things like that; they are reducing the amount of impervious area significantly with the landscaping. They will also test the drive aisles to see if they can be narrowed.

Bill Lunt asked about the stormwater management.

Mr. Greer said that, under DEP standards, if you are putting new building on existing asphalt you have to treat it. If it is a redevelopment project where the building and parking are being left in place, you don't have to treat it. According to Tony Hayes the 48 inch culvert has some issues on the end of it; they are trying to determine whether they own it or the Town owns it. They are in the early stages of the engineering.

Tony Muench, landscape architect, discussed the Route 1 and Fundy Road buffers – the Route 1 design guidelines allow for slight variation as long as it follows the intent. They are trying to create visual access to the building. They might ask for more shrubs and less trees in the next stage.

Bill Lunt asked if they are planning a sidewalk on Fundy Road.

Mr. Muench said there is a big swale along Fundy, with several drainage points coming into it. They have shown a sidewalk on the other side. Both parcels are owned by the same owner. They would like to defer the sidewalk due to the steep slope.

Bernie Pender would like to see a projected sidewalk along that side, just to see what it would look like.

Bill Lunt said that under normal circumstances a sidewalk would be on both sides, but since this isn't Route 1 he asked Ethan if it is required.

Ethan Croce said there is no document that expressly requires sidewalks on both side of Fundy. It seems easier to locate it on the other side of the road.

Mr. Greer said that Tony Hayes's comments said either side would be acceptable.

Mr. Sengelmann presented the proposed enhancements to the architecture. The building is a severe, modernist building with a flat roof. There is very little pedestrian scale on any parts of the building. They are proposing a brand new entrance for the bank. There will be three entrances to the building, where there was only one. He discussed the elements they designed to bring pedestrian scale, with matching materials. Each side of the building has enhancements. The parking is not 20 feet from the property lines along either Route 1 or Fundy Road, but it is close. There will be two places on the site for social interaction. They are looking for feedback from the Board on the architecture and the pedestrian and vehicular circulation. They will evaluate the width of the aisle for truck turning radius; they know it is wide. They are proposing to landscape the drainage swale along Fundy and place the sidewalk on the other side. They have 86 parking spaces and are coming closer to the 76 listed in Ethan Croce's notes.

Becca Casey wasn't concerned with a few more parking spaces; she thought there would be overflow parking from Dunkin Donuts with the improved access. She was concerned that the stucco is not pedestrian scale material and is not in the village guidelines. She would like to see more on the scale of the materials on the entrances. She was in favor of keeping the connector road closer to the stream. She didn't feel moving it back was a viable option to link the sites. She felt it was important to get the sidewalk in on Fundy Road and was okay with it being across the street.

Bernie Pender asked Ethan about his comments regarding connection between this property and Dunkin Donuts. He said it didn't make sense to cut through to Dunkin Donuts, which is already congested.

Ethan said there are two different connections contemplated by the Village Center Design Guidelines: one is that businesses be interconnected with driveway connections; the other is an overarching connector road. His suggestion was to look at not requiring that connection.

Bill Lunt thought there was a big elevation difference between those two properties. It is all of three feet.

Ethan Croce said that since it is a requirement of the Village Center Design Guidelines he wanted some feedback from the Board.

David Fenderson asked about signage.

Mr. Sengelmann said the former signage is gone now. They will have individual tenant signage, with a monument type directional sign out on Route 1.

Bill Lunt wanted to see if they could break up the mass of the roof line. Mr. Sengelmann said that is the side away from both Fundy and Route 1. David Fenderson said that side is going to get a lot more exposure with the connector road.

Bernie Pender asked if the garage doors are going to function as garage doors. Mr. Sengelmann said yes; they are planning for it to be a service station.

Bill Lunt said the building doesn't fit the guidelines. He asked if they have been working with Tom Emery.

Mr. Sengelmann said yes; they have done some preliminary work on a couple other looks, but he wanted to get something before the Board for feedback.

Mr. Sengelmann asked if they would need a waiver if the parking is closer than the required 20 feet.

Ethan Croce said yes. They could request a waiver for the Route 1 setback; they would not need a waiver for the Fundy road side. Bill Lunt said they have waived that in the past; they are only asking for a few feet.

11. TideSmart Realty – 380 US Route 1 – Request for site plan review for an addition to an existing office building and a subdivision amendment. Tax Sheet 83; Map-Lot U62-003-001 & U62-002. Zoned BP.

Tabled due to time.

Other Items

Board discussion and recommendation on proposed amendments to the Subdivision Ordinance and Zoning and Site Plan Review Ordinance relative to the protection of natural resources

The Board discussed the proposed amendments at length. Bill Lunt raised several areas where he felt the ordinance needed more work.

Bernie Pender moved that the Board recommend not approving this document as it currently stands due to significant administrative issues, including lack of clarity and inconsistencies. David Fenderson seconded.

Bill Lunt asked all members to vote, including alternate members.

Motion carried 6-0.

Meeting adjourned 11:42 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary