

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, JUNE 1, 2010, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

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

MEMBERS ABSENT:

STAFF PRESENT: Ethan Croce (Senior Planner)

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

1. Approval of May Meeting minutes

Stan Bennett moved to approve the minutes; Becca Casey seconded. Motion carried 3-0 (Pender, Fenderson abstained).

Public Hearing

2. Proposed amendments to Section 5.3 and 5.26 of the Zoning and Site Plan Review Ordinance relative to the storage of boats and recreational vehicles.

Ethan Croce explained that the proposed amendment would amend the definition of recreation vehicles and how they can be stored.

Public comment period opened; no public comment.

The Board did not issue a recommendation.

Agenda Items

3. 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.

Ethan Croce presented the applicants' waiver requests. The applicant is requesting a waiver on the maximum road slope requirement: the ordinance standards limit the maximum road grade to 8% with an allowance for interspersed 500 foot sections of 9% grade. The applicant is requesting a 1% increase to allow the use of a 9% road grade with two sections of road at a 10% grade. The applicant is requesting a waiver on the maximum dead end road length of 1500 feet. The applicant is requesting a dead end road length of 2,643 feet. The applicant is requesting a waiver of the requirement for two paper streets on a dead end road of this length; one is provided on the plan. The Town requires that post-development peak flows not exceed pre-development flows for the 2, 10, and 100 year storms. The applicant is requesting a waiver on this standard, as the stormwater analysis indicates that there will be a small increase in post-development flow for the 2-year and 10-year storms at one control point. The applicant is requesting a waiver so that the road can be narrowed to 20 feet wide and another waiver so that the shoulder width can be narrowed to 2 feet. The final waiver request is to allow more than 15 homes to be placed on a dead end road in the Farm and Forest district.

Jim Thibodeau of Associated Design Partners representing 100 Acre Woods LLC explained that they have not changed the road grade and basic road layout since they received a favorable response from the Board at a prior meeting. They believe that they need the waivers on road grade and length in order to access the best usable land, as identified by the four step design process. They did a minimum disturbance where they cross the existing wetland and stream. Regarding the waiver on two paper streets, he explained that there is a lot of

steep land here, and it would be such a large earthwork project to put in a second roadway at the end that it wouldn't make sense. There is some opportunity for future connection to the land that Fred Chase sold to the Town. They have fee interest in the street at the entrance, over which current landowners have access.

Stan Bennett asked how far away the nearest road is from the northwest of the property. He wondered what the next public road is.

Mr. Thibodeau said Starlight Drive, the entrance to Oxford Woods. Poplar Ridge is back there as well. They are offering a paper street in that direction.

Bill Lunt asked if the access at the entrance would count as a paper street and therefore remove the need for a waiver.

Ethan Croce said it could theoretically provide a second access; it is built out so it isn't technically a paper street. It would be up to the one private property owner to develop that one parcel of land between the private way and the undeveloped land.

Mr. Thibodeau explained that the proposed reduction in the road width came from the peer reviewer and they agree with it. They do not see this road ever being adopted by the town. It makes sense for 18 lots to have a 20 foot wide roadway; there will be less environmental impact. The reduction in the road shoulders is the same.

Stan Bennett asked if peer reviewer recommended the reduction in the shoulder width as well.

Mr. Thibodeau said yes. Regarding the 15 lot restriction, he said they could put 1-4 lots directly on Blackstrap, but the abutters had concerns about the visual effect on the corridor along the road. They cut the subdivision from 20 lots to 18 lots and moved all but one of the lots onto the ridge.

David Fenderson asked about the road grade within 250 feet of Blackstrap.

Mr. Thibodeau said it meets the ordinance. There are only a few locations where they do not meet the ordinance.

Art Colvin of Associated Design Partners explained that there were a number of control points they analyzed for the stormwater management system. They have an overall decrease across the project. There is a small increase in a wet area that drains across a swamp into a pond. There is a pretty good pond with only an 8 inch outlet which restricts the flow; that is not on their property. At the property line there is a slight increase but that will go to that pond and the net effect will be negligible. CCSWD feels that it will be a minimal impact.

Bill Lunt opened a public comment period on the seven waiver requests only.

George Theborge, a planning consultant representing abutters Jack Chellis and Mark Smith, expressed concern about the process the project is following. He was concerned with reviewing waivers on engineering before the full engineering analysis has been presented to the Board. He asked that any discussion regarding the waivers be an indication of openness to granting the waivers and not formal approval of them. His clients were concerned about the steepness of the road grade. He felt that the existing private way could be considered the second paper street and that the increase in discharge would not have any impact on other properties. His clients would support the reduction in width of the roadway and shoulder widths. His clients appreciated the developers' removing the lots along Blackstrap Road and removing the majority of the lots from public view. At Becca Casey's request, Mr. Theborge indicated on the plan where the homes of his clients were located.

Mr. Fenderson asked about the abutters' concern regarding the road steepness.

Mr. Theborge said his clients are concerned about the suitability of the development overall and the granting of the road waiver is necessary for approval of the development.

Bill Lunt said that he felt voting on the waivers was necessary, to allow the developers to continue their work with a good idea of whether those waivers will be allowed.

Ethan Croce thought an official vote could happen at the end of the meeting, with a straw poll right now. The Board agreed with this manner of proceeding.

Becca Casey didn't see anything from the Fire Department regarding the road slope.

Ethan Croce said the Fire Department's only comment in the past was requesting that the homes be serviced by individual sprinkler systems.

Stan Bennett asked if there are potential problems even with sprinkler systems, with the combination of road slope, length of the road and the reduction of the road width.

Bill Lunt said as a volunteer firefighter he didn't foresee problems with the road grade; there are steeper roads elsewhere in Town. He didn't think this was unique.

Ethan Croce said no concerns were raised by the Fire Department in their review of the application. Public Works had requested earlier in the process that the sharpest road curves not be combined with the steeper slopes.

Ethan Croce presented the key issues. The ordinance requires an open space ownership and stewardship plan. There needs to be clarification on whether the open space will be held in common ownership.

Mr. Colvin said they have been in contact with the Falmouth Land Trust, who will ultimately receive ownership of the open space. They incorporated some of Mr. Jed Harris' notes into the plan. The Land Trust will take full ownership of the open space, with maintenance of the detention pond being held by the Homeowners Association. All the trails on the property will be fully open to the public, and the note that indicated otherwise has been removed.

Mr. Jed Harris, vice president of the Land Trust, confirmed those statements. He said they reserve maintenance rights, and all the fee land they receive will be open to the public.

Becca Casey said the Conservation Commission asked if they will be posting with their other trails.

Mr. Harris said there is access through the new Falmouth Forest as well as off Blackstrap.

Becca Casey asked about the wildlife corridor running through, which would be severed by the lots on the end of the street.

Mr. Harris was aware of that. He said this property is important for the Land Trust to get; they are willing to work with the developers to get whatever they can. He indicated on the plans where the trail would come through; there is plenty of woodlands on that side for wildlife to come through.

Ethan Croce said only the Planning Board can approve different uses in the open space. If there is timber management and harvesting planned, that should be fully explained. If there is to be harvesting to a greater degree, it should be on the plan.

Mr. Harris said the Land Trust would not do any commercial harvesting, only clean up if there is a blow down.

Bill Lunt asked for a final plan when they come for final approval.

Bill Brogan asked about the possible parking for the public, as suggested by the Conservation Commission.

Mr. Colvin said that they looked at that. It would be tight to put that in there and the Land Trust feels they have other access points.

Mr. Thibodeau said that you can pull a car off Blackstrap on either side of the road in that area. There is plenty of opportunity for parking there.

Ethan Croce said the applicant is asking for a 20 foot leeway to allow them to shift the trails or driveways in either direction to provide them more flexibility to design the trails around any natural constraints, like steep slopes or ledges. The 10-20 foot vegetated buffers between lots are shown on the plans, as well as the mature trees that are to remain; if there is flexibility on the driveway locations what assurance would there be that the

driveway locations would respect those trees to remain. Another question is what the intent is as far as clearing outside the building envelopes.

Bill Lunt didn't have a problem with the leeway on the trail system, but he wanted to know how it would happen with both the driveways having flexibility and the mature trees being protected.

Mr. Colvin said they wanted flexibility on the trails just in case they hit something.

Bill Lunt asked if they are going to leave the driveways where they are.

Mr. Colvin said they felt the driveways are in the best locations as they are and will not be changed. When they come back for final approval, the driveways will be on the plans.

Heddy Snyder asked if the trail will be limited to the narrowest point across the wetland. Mr. Colvin said they have done that.

Stan Bennett asked if that area will be excluded from the 20 foot flexibility.

Mr. Colvin said in that location they are showing specifically where a trail can be. The only point they have to hit is the narrowest point of the wetlands. That location will be annotated by metes and bounds and will be shown on the subdivision plans. They have put a note on the plans limiting the drive widths to 12 feet except where they have shown parking. The mature trees are intended to be preserved and, unless shown with an X on the landscape plan, are prohibited from being cut.

Becca Casey asked if the lots that share a driveway can share a turnaround as well.

Mr. Colvin said they will need that space for vehicular turning; it is relatively tight.

Mr. Thibodeau said some of the additional spaces are for parking. He felt it was overly restrictive to go beyond what they have already done in restricting the individual lots.

Ethan Croce said the 100 foot deep buffer along Blackstrap, the perimeter buffers, and the vegetated buffers along individual lots should be labeled "no cut buffers" on the plans, unless some other treatment is planned. Treatment of the buffers should be approved by the Board.

Mr. Colvin said they have done that. He said the only thing they plan in those buffers is treatment of dead and diseased trees and supplemental planting.

Ethan Croce said the ordinance suggests that trail locations should be within the common open space; the trail currently crosses over private property on one of the proposed lots.

Mr. Colvin said they originally had the area between lots 16 and 17 as part of the open space. They have not counted that in the open space calculations; they are 3.9 acres over what is required for open space. There is a knoll across the road that they put into easement instead of open space because if it was added to open space it would make one of the lots less than 20,000 sq feet.

Ethan Croce asked if they could put just the area of the trail itself into the open space system, and leave the knoll area in the protected easement. Mr. Colvin said they could do that.

Bill Lunt asked if there was anything in the ordinance that precludes them from using an easement.

Ethan Croce said that in appendix 9 it states that the trail system shall be created within the common open space.

Mr. Colvin said if they can do the strip in open space, and the knoll as an easement, they can do that.

Ethan Croce said the applicants have removed two of the three lots along Blackstrap; staff is asking how the location of the remaining lot was dictated by the four step design process. There might be more mature evergreen and year round buffer further down the road.

Mr. Colvin explained the topography of the land along Blackstrap. Where the building location is shown is where the more gentle slopes are. They were asked to pull building envelopes out of steep slope areas, and they have done that.

Mr. Thibodeau said the two landscape architects chose that location as the least amount of impact.

Ethan Croce said the issue of building envelopes within areas of steep slopes has been addressed. Regarding the pond buffering he said that the proposed junipers will only grow 2 to 3 feet high and are sited 2-3 feet below the road.

Mr. Colvin said they will strike the junipers and keep the Chinese lilacs; the junipers will be brought up slope along the guardrail to soften its effect.

Bill Lunt said Chinese lilacs will not do much screening in the winter. Mr. Colvin said their landscape architect said this species will work the best.

Mr. Thibodeau said the junipers will soften the slope.

Mr. Colvin said there are other plantings in the detention pond area; the junipers and lilacs are not the only landscaping in that area.

Ethan Croce asked about adding additional landscaping along the double retaining walls and the color of the wall itself. The peer reviewer requested a natural color for that wall.

Mr. Colvin said they have added landscaping along the top of the lower wall. They would like to go with a granite color for the wall, which they feel would go with the landscape.

Stan Bennett thought the peer reviewer asked for brown to black instead of granite, which would be light grey. Ethan Croce said the peer reviewer requested that it not be bright white, but be a natural color.

Ethan Croce asked about the realignment of the existing private way to create a more 90 degree intersection with the new subdivision road. He also asked about some means to block off what will become the abandoned portion of the private way.

Mr. Colvin said they have done that on the new plan. It will be loamed and seeded.

Bill Lunt asked if people will be able to drive across it anyway. Mr. Colvin said they could put in some boulders.

Bill Brogan asked about a stone wall shown on sheet L1.

Mr. Colvin said it is their intention to use stone from the wall as part of the localized landscape features.

Ethan Croce said a letter is required from the owner of Lot 1 to allow improvements to their land.

Mr. Colvin said they hired Gnome Landscaping to draw up a landscaping plan for the land including new fencing, new lawn, and they have a signed letter from Mr. Williams accepting the landscaping plan from Gnome. That is executed and on file at the registry.

Ethan Croce asked about the small triangular easement shown on prior plans; the applicant said it is no longer necessary. He asked for clarification that it isn't an existing easement.

Mr. Colvin said it was a proposed easement. There is no current easement.

Ethan Croce asked whether the Board felt any additional peer review is necessary. Two outstanding peer review comments remain – redesigning the stormwater plan to include more low-impact development techniques instead of one large detention pond, and removal of the common green area from the plans. The applicant is showing a landscape buffer area in place of the common green; he asked what the intent is for that buffer area.

Mr. Colvin explained the loop system, which was based on an old logging road on the site. They had the room to do the common green at the time. The peer reviewer told them to take the loop system out and move the road as far as they could to the east to keep as much of the green space as they could. It is their intention to have the crescent moon shaped area as a no-disturb area.

Mr. Thibodeau said the loop system did not have an adequate turn radius for emergency vehicles.

Stan Bennett asked about less intrusive techniques for stormwater management.

Mr. Colvin said this is a low impact stormwater design. The entire subdivision, with the exception of the downstream side of the pond will be treated 100% for stormwater quality. They have the stormwater permit in hand; they feel this was the best they could do. They originally had the detention pond on the other side of the road; everyone was concerned with it there, so they moved it. This allows them to hide the pond and place it behind the road embankment, which provides more protection.

Bill Brogan asked about the width of disturbance of the swale and the walking path. His concern was that there is no grade shown, and with a drainage swale and a walking path, it would be a fair amount of disturbance along that hill.

Mr. Colvin said it will be a 25 foot swath. There won't be a lot of cutting into the backslope. A good average would be a 10 foot width to get that swale in there.

Bill Brogan was concerned with the visual impact.

Mr. Colvin said there would be buffering along the road. DEP requires 95% treatment of the lots.

Bill Brogan said they could still meet those requirements with stuff on the lots. He felt it was a lot of disturbance where there is plenty of elevation.

Mr. Colvin said the swale will provide great protection for the trail by intercepting anything coming down that hill.

Bill Brogan said the buffering is very thin there, especially in winter. Taking a 25 foot swath out of the middle will make it very thin. He felt there were alternatives.

Mr. Colvin said between the slopes and the area it does not lend itself to an LID design. They have discussed it with Terry DeWan, the peer reviewer.

Ethan Croce asked about the Conservation Commission's comment regarding an open bottomed culvert along the stream. Mr. Colvin said they can do an open bottomed culvert.

Bill Lunt asked if they can use a bottomless culvert instead of an arch culvert. He said they can determine how they will do it and bring it back next time.

Ethan Croce said Tony Hayes requested additional soils testing for the pond, to address potential seeping and stability issues. Tony Hayes also suggested adding a swale above the curb terminus in the road adjacent to the detention pond, and adding a catch basin above the bus area.

Mr. Colvin said they have data from the pond area and there is a copy in the stormwater packet. Regarding seepage, the upper under drain system will act as stormwater quality treatment, but there is another layer of under drain material and pipe to intercept any groundwater seepage. They have added a new swale as Tony Hayes suggested. They have also added a new basin to intercept the water before the bus turnaround area. Landscape buffers are shown on the subdivision plans. They don't want to consolidate everything on one plan, as they are concerned that the plan is too busy.

Becca Casey felt that if they have two foot shoulders people might be more likely to walk along the trail. She wondered if the trail that crossed the road should be wider. She asked about a route to the bus shelter.

Mr. Colvin said Ethan Croce has asked them to extend the sidewalk in a couple places. There is now a continuous sidewalk all the way to the bus stop area along the right hand side.

Public comment period opened:

George Thebarger said that great progress has been made to bring the project into compliance. He spoke about the length of the design process and why they felt it has taken so long, including the difficulty of bringing the road up the slope and their feeling that the developers did not correctly follow the four step design process. He said that the consulting engineers designed the subdivision and then brought the landscape architect in to

justify that design. He felt that the landscaping around the detention basin was inadequate. The detention basin, at 1.2 acres, is too large for the project. He felt that, in order to meet the grades for the road, they will excavate a borrow pit and call it a detention basin. He advocated a second peer review by an engineer recommended by Terry DeWan. He also recommended that Terry DeWan be at these meetings along with the applicants' landscape architect. The Planning Board should establish who will be responsible for overseeing the project, and a landscape architect should be retained to oversee. He was concerned with the cost of constructing the proposed road, utilities and major drainage and landscaping features, including the retaining walls; he requested the Planning Board carefully review to see if the project is financially viable. This location is called out in the comprehensive plan as being an area generally not suitable for development, due to the slopes. His clients' concern is that, as the costs of the project escalate, there will be pressure to cut corners and that will start with landscaping. He asked the developers to stop fighting the landscape architect design process.

Bernie Pender asked if they were opposed to the location of the detention pond.

Mr. Theborge said that Tony Hayes' concern about seepage was in regard to the 2:1 side slopes that the road will be sitting on. The Town's peer reviewer has said the design of the pond is not appropriate.

Stan Bennett asked about their financial concerns with the project.

Mr. Theborge wondered what the margin of profitability for the project is. The Board should ask for a formal letter of commitment from the lending institution. The question is if the lots will sell, how long it will take to sell them, and if they will sell for enough money.

Mr. Jed Harris, vice-president of the Falmouth Land Trust, said he applauds the developers for using the conservation subdivision process. These regulations have proved to be useful for the Land Trust. This project provides permanent protection, access and a trail system across key linkage. This will connect over 500 acres of conservation space.

Mr. Mark Smith of 565 Blackstrap Road felt the Planning Board is not holding the applicant to the letter of the ordinance. When something is designed by committee, it is a piece of crap, and he feels that is what happened with this project. The ordinance calls for a landscape architect to lead this process due to its complexity. He asked why the Board has not called for a landscape architect to spearhead this process; instead the engineers hired a landscape architect to rubberstamp the design. There have been improvements in the design, but to see what this will look like in detail is critical, and that is what landscape architects do. He asked if there has been a site walk.

Ethan Croce said there has been a site walk, but Stan Bennett was the only one on the current board that was there.

David Fenderson asked if it is a threshold issue if the project hasn't followed the proper process.

Ethan Croce read section 7 from the ordinance, in which it states: *The owner shall retain a landscape architect in order to ensure that the many elements of the subdivision plan are designed and built according to a coordinated and efficient development concept. The owner's landscape architect, and other professionals as needed, shall consult with Town staff or with the town's peer review consultants, in order to ensure compliance with the Town standards.*

David Fenderson asked if staff was comfortable that the applicant has met that requirement.

Mr. Thibodeau said they have retained a licensed landscape architect.

Ethan Croce said staff have met with the applicant's landscape architect three or four times since he has been involved with the project.

Jack Chellis of 561 Blackstrap Road said he has lived there since 1980 and has seen a lot of development in town. He discussed the previous site walk, which was held the day after an ice storm. He felt that a site walk is absolutely critical before any more decisions are made. The pristine ridge will disappear once this development proceeds. He isn't against the development, but this will stand out as a blight across this

hillside. He would like to see every other area looked at individually. The trail entrance is now an area that you can drive huge equipment through. He asked if the light colored retaining walls are going to be visible from the road. This road is travelled by a great number of people.

Public comment period closed.

The consensus of the Board was to have a site walk.

Stan Bennett wanted more consultation with the landscape architect.

David Fenderson said that nothing he has seen tonight suggested that the developer is trying to cut corners. He wanted to make sure the applicant follows the process from here on out. Having the landscape architect at the meeting would help.

Bill Lunt said the applicant changed the process midstream to fit the Town changing the ordinance. He asked for the peer reviewer to attend the next meeting. The project got started backwards from the start; the developer first came in with a standard subdivision, was asked to wait and he did.

Mr. Colvin said their landscape architect would have been here tonight, but he had surgery.

The Board conducted a straw poll on the waiver requests.

Stan Bennett approved of all seven.

Heddy Snyder was okay with all but the last one, which would allow more than 15 homes on the dead end street. She didn't think she heard a lot of justification for that request.

Bill Lunt said conservation zoning allows the number of homes that the applicant wants; the Farm and Forest district doesn't.

Ethan Croce confirmed that statement. The project's underlying density didn't change with conservation zoning but the Board can waive it.

Becca Casey agreed with Heddy Snyder. She was not convinced that they need it; she was looking for some reason or vision. Her best guess was that the reason is financial. She thought they would gain some of the flexibility they wanted if they removed one of the lots.

Mr. Colvin asked if the should add another lot on Blackstrap.

Becca Casey was happy they had only one lot on Blackstrap. That lot doesn't feel like a part of the subdivision. Removing two lots would bring it into compliance, would lower the requirements for stormwater, allow them to get the open space with the flexibility on the trails, and address the conservation concerns with the wildlife corridor.

Heddy Snyder asked if the building envelopes for the two lots that were removed from Blackstrap Road were on the 25% grade.

Mr. Colvin explained that they could have put those within 25 feet of the road and had flat slopes to work with. They first moved them back to 75 feet from the road in response to feedback from abutters and then removed them.

Bill Brogan said a 10% road grade is very steep. He agreed with waivers 2 and 3. Regarding request number 4, he would want a letter from the abutter allowing increased runoff to their pond. He was fine with waivers 5-7.

David Fenderson was okay with all of these. He was concerned with the comments regarding the bonding of the project and the financial resources of the applicant. The Board cannot treat them any differently than any other applicant.

Bill Lunt was comfortable with all of the waiver requests.

Mr. Colvin said the landscape architect has been on the site. The only concerns raised previously were the location of the detention pond and the lots on Blackstrap. Material from the detention pond will not be used for road bed; it is not suitable material. They have been learning through the process, along with the Town.

Stan Bennett moved to table the item. Bernie Pender seconded. Motion carried 5-0.

4. (***Item Tabled***) **The Waldron Group** – 215 US Route 1 - Request for site plan approval for redevelopment of an existing 15,100 square foot building. Tax Sheet 320; Map-Lot U11-035-A. Zoned SB-1 & VCO

Meeting adjourned 9:34 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary