

FALMOUTH PLANNING BOARD MEETING MINUTES

TUESDAY, June 7, 2011, 6:30 P.M.

FALMOUTH TOWN HALL, COUNCIL CHAMBERS

MEMBERS PRESENT: Bill Lunt (Chair), Becca Casey, William Brogan, Heddy Snyder, Kermit Stanley (Alternate), Walter Arsenault (Alternate)

MEMBERS ABSENT: Bernard Pender

STAFF PRESENT: Ethan Croce (Senior Planner)

Meeting started at 6:30.

1. Approval of May minutes.

Bill Brogan motion to approved; Kermit Stanley seconded. Motion carried 5-0.

Agenda Items

2. (Tabled) Tidesmart Global – 380 US Route 1 - Request for approval of a property identification sign. Tax Sheet 83; Map-Lot U62-003-001 & U62-002. Zoned BP.

3. Fred Chase – Brookfield Rd. – Request for final approval of a 4 lot conservation subdivision. Tax Sheet 500; Map-Lot U56-002. Zoned Farm & Forest, RCZO, LR & RP (Shoreland).

Ethan Croce said there were a couple of issues leftover from the preliminary hearing. The first issue was the Planning Board deferred making a finding on the setbacks for the proposed lots because no mature tree stock had been identified. The applicant had identified the trees and there had only been a few on site. The PB needed to make the appropriateness. The second was the applicant wanted to do some clearing around the perimeter buffer around the site. The applicant was asking for in the future to clear the strip, as desired by a future homeowner. They had also put forth a vegetation replanting plan to mitigate any clearing. The final issue was asking the applicant to verify that all of the lots have 125' of minimum lot width required.

Heddy Snyder came in. Kermit Stanley was excused from voting on the item. Walther Arsenault was appointed as a voting member.

Betsy Poulin from Mitchell and Associates highlighted some of the changes made on the site plan. They changed the lot configurations of the boundaries to include some more primary conservation area in the open space. The lot sizes had been reduced and were around 1 acre. Lot 1 had some steep slopes that were in the open space. Lot 2 line shifted in between the open space and the lot. Lot 3's perimeter buffer had been shifted into the open space. In that lot there were two areas identified as steep slopes. One was a no-

Planning Board Minutes

June 7, 2011

Page 2 of 8

disturb buffer. They were hoping the other area on that site would be allowed to have disturbance for construction. On Lot 4 they increased the area from the man-made pond. They shifted the boundary to include some of the buffer area. A lot more of the conservation area was in the open space. Lot 2 still had area within the 50' perimeter buffer. That lot was unique because the rear of the abutting properties had a grade difference of 30-40 feet. The thought would be that any planting buffer wouldn't be necessarily visible from those owners' perspective, or the planting could impact their views down towards the river. Since they didn't have exact building and clearings, they proposed a vegetation plot plan. Once the footprint was better understood, they could make changes to the plan. All of the lots complied with 125' lot width requirement.

Becca Casey asked if the building footprints were hypothetical and could move.

Ms. Poulin said yes, they could move and it could be possibly built in that area but the soils were possibly less conducive.

Bill Lunt asked if this was the only building of the four lots with the issue of native versus fill soils.

Ms. Poulin said that each lot had that issue. The plan showed where suitable septic sites were.

Bill Lunt said for clarification, they had a 50' buffer for a reason. If there would be a disturbance, they would have a good reason why and a plan of action for that. Ms. Poulin had a state of action, but they hadn't typically given people permission to go into that 50' buffer, unless it was at given at the beginning. It was unique. He said they needed good justification for that. The building envelope wasn't in that, but it was right on it. There wouldn't be much of a backyard with the buffer that close.

Walther Arsenault asked about why lot 2 was made the way it was.

Ethan Croce said in that instance they were including the buffer as part of the lot.

Walther Arsenault asked if that was to give that parcel the correct amount of square footage.

Ms. Poulin said that it had to do with the native soils and getting a septic system in that lot.

Walther Arsenault asked about Lot 2 again with open space. He wondered if they could reconfigure that lot so it would come out of the buffer space and into the open space.

Ms. Poulin said that open space had more fill in that area. That's why they avoided that change to the plan.

Walther Arsenault said it looked like they were locked into a little triangle unless they shifted everything to the right.

Fred Chase said it wasn't as bad as it looked. The reason they needed to rebuild the buffer was then it was a tangle of invasive species that were undesirable. The elevation made it a unique situation. If they were to conform with that, if they planted spruce trees, the neighbors would lose their view. They were planning on planting blueberries instead. They would be more desirable and beneficial. The houses would sit on ledge soil. A lot of the trees were dead or dying. Those were the ones they wanted permission to cut. He thought they could put a restriction on lot 2 before the permit was granted. He said they could move the house forward 10-15 feet to answer the problem of the 50' buffer.

Bill Lunt said if they were going to allow them to do something with the buffer with that condition it was. The part he had a problem was not having a plan that would be there. He said they could put a restriction with a landscape plan to take care of the issue of buffering. He said as long as they made a deal with staff so that both parties were happy, he would be happy to make that a condition of approval. That kept them from opening up that can of worms- having lots that would be put together as it went.

Ethan Croce said limiting it to dead, disease, or dying trees. To incorporate that into the buffer, he wasn't sure if that would be necessary to be approved with staff. He said that they could sign off on it, but the question was whether it was necessary to require a vegetation plan to the supplemental vegetation. If the intent was to clear more than those trees, it would be a different story.

Bill Lunt said it was his understanding was it was their ability to determine it on their own. If a good

Planning Board Minutes

June 7, 2011

Page **3** of **8**

percentage was bad and the buffer was pretty much cleared out, that would be different. So they would want them to come back and make sure everything was okay with staff.

Ethan Croce said staff could work with that. Without visual evidence, that gave staff an incredible amount of freedom to determine what an acceptable buffer was.

Bill Lunt was thinking about less problem worrying about staff, rather than the applicant would worry about it being too much. He said he trusted the staff, and if the applicant was willing to do the same, he was willing to do that. If the applicant felt that staff had gone overboard, they could go back to the PB.

Becca Casey said she was leaning in the same direction of Bill Lunt. She thought it would be good if there was some documentation before work started for reference.

Mr. Chase said staff was acceptable to him.

Bill Brogan said he agreed with them. He was worried about the affects of future projects. Not because of a natural problem but a manmade problem.

Bill Lunt said if they required them to take some photos and then make a plan for staff. Whatever they did would be better than what was there.

Fred Chase said there was about 25ft of trees that didn't need to be moved. He just wanted to let the PB know that he would be tempted to make it look better. There were some trees trying to grow that weren't doing well.

Bill Lunt said they addressed the three items on the key issues list. He had a question under the Declaration of Covenants and Restriction, item 3-2-1 under Road. The road wasn't built to be to the requirements of the Town, but later he read that they perhaps wanted the road to be taken by the Town.

Ms. Poulin said that they wanted to revise that. They wanted that in the future to be an option to be accepted as a public road.

Bill Lunt said that it would have to meet the standards to become a public road. Also, the Town Council would decide, not the PB.

Ms. Poulin said that the town engineer had looked at it and the design was acceptable for town standards.

Bill Lunt said that particular item was subject to revision.

Ms. Poulin said that they could just cross out the "not."

Bill Brogan asked about the sidewalk and lighting.

Ethan Croce said the Ordinance called for a sidewalk on minor streets. This would be a minor road, and there would be a little spot that would be more than minor by Brookfield and Kimberly that the. There was approval for a waiver granted for the sidewalk and a horizontal curb coming down the roadway

Bill Brogan asked if they were granted on the assumption it was going to be private.

Ethan Croce said that he thought that it was initially that and then later it was understood they wanted to reserve the right to make it a public road later.

Bill Lunt said they did vote on it based on the fact they did want it to be accepted.

Walther Arsenault thought Bill Lunt's statement was true, and that they had talked about the light as well.

Ethan Croce said the light wasn't required at the cul-de-sac. That wasn't a big deal because, for other roads, the Town was moving away from making those requirements for the lights. Public and private road standards weren't differentiated in the Ordinance on that issue. There was some vehement objection about accepting the road in the future at the 100 Acre Wood. They didn't have that problem with this one. They will get a recommendation from the Planning office and the Public Works. Ultimately it would be the Town Council's decision to accept the street or not.

Heddy Snyder wanted to caution the PB against suggesting specific changes to the Declaration. Because of the nature of the document versus their role as a board. She wanted to wait and see where the conversation ended up.

Becca Casey read article 4.1.2 in Open Space. She wanted to know if landscaping was included in improvements.

Ethan Croce said the PB needed to find whether the building envelopes and setbacks were appropriate for section 3.13.

Bill Lunt asked if he had any issues with that.

Ethan Croce said that it was required in the Ordinance that the PB makes a finding on that. The PB deferred making that decision on the last meeting.

Bill Lunt asked if the PB members had any problem using the four-step design issues and if the building envelopes were adequate.

Becca Casey thought number two was highly subjective. She didn't think they were ideal sitings. She would personally rather see the buildings a little forward, but generally yes they met the requirements. It would be nice to look at relationships to each other and the street.

Walther Arsenault said he wasn't clear about the setbacks in lot 2.

Ethan Croce said for the rear setback and the buffer were in the same place.

Heddy Snyder asked whether the trees would be protected long term.

Ms. Poulin said the trees were on lots 1 and 4. She said on lot 1, they preserved them more by shifting the envelope. There were 2 trees right in the middle of the site. They would make efforts to save those during construction. For lot 4 they were close to the edge of the slopes and near the pond. That area wouldn't be disturbed.

Heddy Snyder said that the applicant was asking to remove the two trees in the middle of lot 1 and those five trees on lot 4 would be protected. Was there a plan to protect those trees?

Fred Chase said they would be protected. There would be no reason to not protect them. He said the other two trees were a problem. He said Becca Casey made comments about locations. They were probably a little too far apart, but because of all of the restrictions the houses lost out. It would be desirable to have 7-8 instead of 4 lots because of all of the zoning restrictions. He thought it best that the houses sat on ledge. He said they were going to be small houses.

Bill Lunt said the main issue was the two big trees on lot 1. They had suitable area for a septic system in the area of one of the trees. One was so close to the envelope it would be hard to not disturb the roots. He said he wasn't having a lot of heartburn over the two trees, as much as he hates to see trees go. As for the other trees, he didn't think they had the ability to stop people from cutting those trees in the future since it was outside the buffer. He didn't think they would be cut because of the slope of the land. He said he didn't want a house half sitting on ledge and half not on ledge.

Kermit Stanley didn't see a problem with the two trees and building on the ledge was important.

Bill Brogan and Walt Arsenault didn't see a problem with the trees either.

Bill Lunt asked if it was possible to have a finding for a four-step process. He asked if they needed a formal agreement.

Ethan Croce said they didn't need to have a formal vote, but more of a consensus.

Heddy Snyder wanted to ask the applicant if they were clear whether or not the road was going to be built to public road standards. It wasn't clear if they told the applicant to add the word not or take it out.

Ethan Croce said he didn't know why the language needed to be in the Declaration because they didn't make a decision so it was superfluous.

Heddy Snyder said she didn't want to make a change if they weren't sure what the facts were regarding the road.

Becca Casey talked about the wording but said it wasn't for them to make a decision, just to say that it was

unclear to them.

Bill Lunt said they made it abundantly clear that it had nothing to do with them gaining acceptance of the road and they had covered their points. They weren't saying that document gave the Homeowners' Association permission to do the road.

Heddy Snyder asked if they made sure reference to clearing behind lot 3 on the buffer revegetation plan was moved.

Ethan Croce said that had been amended. He then read the conditions. The sixth condition was added stating clearing of vegetation may occur within the perimeter buffer on lot 2; prior to any clearing they would go before staff for approval.

Becca Casey moved to approve the application with the conditions read by staff; Heddy Snyder seconded. Motion carried 5-0.

Falmouth Historical Society – 60 Woods Road – Request for a site plan approval to construct a storage building. Tax Sheet 231; Map-Lot R03-039-001. Zone Farm & Forest.

Walther Arsenault was appointed a voting member.

Ethan Croce said the first issue had to deal with parking and circulation. The PB needed to make a finding that off street parking was adequate. Under section 5, museums were not a specific use for off street parking. The board would need to make a decision. The applicant was asking for a waiver for a landscape architect to be retained. They were also asking for one for lights and didn't think they needed one since they were only having operation times during the day. Also they were asking a waiver for parking to be screened. Lastly, they were asking the existing overhead lines not need to be placed underground.

Bill Lunt said that the project was unique in a nonresidential use without any site plan. The Town determined they didn't need site plan approval at that time. They had a site plan before them. They had a nonresidential use with one building without lighting and screening. They had the ability to require a lot of the site plan. He felt they had room since of its use. He said they had originally a plan to have some sort of historic village. He didn't like the idea of having a nonresidential unit and putting pieces in one at a time. Next time they came back for an amendment to the plan, it may be a different board and it may cost a lot more money because they had to catch up with the other site plan designs. He thought they needed to make it clear it didn't set a precedent for them to do that every time. He said it was his understanding that there was some sort of master plan for that lot. He wanted the applicant to be aware of the issue that down they road they will need more plans that would cost more.

Brad Duckworth, the President of the Historical Society, said the site plan he saw was done as a visionary master plan for the next 100 years. They had 5 acres. There were buildings all around. It wasn't a technical plan, more of a vision. Given the fact they are a NPO, it will be light years before they could do that, They were proposing a storage building be built roughly 50-70 feet behind the existing building.

Bill Lunt said that by dealing with one thing at a time, things may be different next time they came to the PB. The other question he had was that the building was being presented as a storage building. If there was that vision there, it seemed common sense that the building wasn't necessarily just a storage building.

Mr. Duckworth said they had no plan to attach it to the museum. They had a lot of donations they needed to store. He said they understood what Bill Lunt was saying. There was no plan to attach the buildings.

Becca Casey said that it wasn't a case of attaching, but its function may change.

Bill Lunt said he was trying to keep the Board from doing something that in the future it may be used in other capacities, and therefore illegal. It may be more practical to make it part of the museum.

Mr. Duckworth said he understood what they were saying.

Planning Board Minutes

June 7, 2011

Page 6 of 8

Bill Lunt said maybe the question was do you have to change the use for the nonresidential if the building became part of the museum.

Ethan Croce said typically the applicant had exact ideas of what would happen and plan that and then they would ask the applicant. He then said they had been before the Zoning Board of Appeals. If the ZBA wasn't that specific then it wouldn't be that much of an issue.

Becca Casey read the language from the ZBA, and it didn't restrict the use. It just called it a barn.

Heddy Snyder asked if they dealt with it as a storage building, would they have to come back to the PB if they wanted to use it as a building in the museum.

Ethan Croce said no, but if they made it an appendage, then it would require more parking. If the Board said that parking wouldn't be affected, then they probably wouldn't need to return. If there was an important distinction between it being for storage or part of the museum.

Bill Lunt said his main concern was to make sure their wording was not to be misinterpreted and that problems build on each other.

Mr. Duckworth said at that point, they envisioned it as storage. In the future it may open up to the public. They would probably extend it.

Bill Lunt asked Ethan Croce if they granted the waivers and allowed the building to be sited where it was sited. The plan didn't have a driveway up to the building or additional parking. They would limit the driveway and parking what it was today. He said eventually there would be a road to the barn. If someone complained about the parking would they have to come back to the Board? If they opened it, that might require more parking. Would they be in violation?

Ethan said it depended on what the PB decided on then. They could have conditions of approval or limitations on it as a storage building.

Bill Lunt said if they didn't address parking or lighting and if they started using it as a museum, would they be in violation?

Ethan Croce said that they would be.

Bill Lunt asked they didn't have the ability to say go ahead and build a barn, would they have the ability to say go ahead and then use it as a museum next summer. Would they require the improvements up front?

Heddy Snyder said they could grant the waivers, approve the barn for use as a storage building and make it a condition that if they want to make it a museum they would have to come back to the PB. Then the PB would reevaluate.

Bill Lunt asked if they had the ability to use it as a museum without coming back.

Ethan Croce said Yes, the Board decided about the parking and since they didn't need lighting that didn't matter.

Becca Casey said the access of the building was important since the gravel area didn't extend back. She asked about what the access to that building was. She asked where the parking spots were, as well as parking for a bus. She wanted to see some more information.

Bill Lunt said that they would have to approve it as storage like Heddy Snyder had said. If they deviated from that, they would have to come back to the Board.

Mr. Duckworth said when they brought the master plan out, things started to explode and things got out of line. They moved back to the individual issue.

Bill Lunt said he understood where he was coming from but when they were looking at that, if they had a vision, then that would give guidance and it may not be exact but it may be compatible in the future.

Ethan Croce said that the ZBA saw it as storage, so if they wanted to change its use, they would have to go back before the ZBA.

Fred Howe, Treasurer of the FHS, said the primary reason he had to go to the ZBA, the building was 500

Planning Board Minutes

June 7, 2011

Page 7 of 8

square feet.

Mr. Duckworth said it was difficult since they didn't know how the master plan was going to work out so they just took things one at a time.

Bill Lunt said that it would be a good idea for them to have a vision that they could bring with them. It would be easier for the PB. It didn't have to be completely detailed, but it would help them see the direction.

Mr. Duckworth said when they had brought the master plan out, things began to explode.

Bill Lunt understood where Mr. Duckworth was coming from, but since more than likely the storage building wasn't going to stay as a storage building, and they were required to come back to the PB, they would have a vision so they could say that it was only one piece and show the next steps.

Becca Casey asked whether the building was on a historic registry.

Mr. Duckworth said it was not.

Bill Lunt wanted to ask each member to weigh in on the 3 waivers.

Walther Arsenault said he didn't have a problem with signing off on the waivers. He imagined that budget was the case as to why they didn't have a landscaper and more prepared site plans. Perhaps in the future they would have something more finished.

Bill Brogan said there probably should be a condition for the public for operation hours.

Bill Lunt said that there should be something like that, and people would be working there in the winter.

Mr. Duckworth said it was just a summer operation.

Bill Lunt said if they decided they needed to stay open longer they could come back to the Board.

Mr. Duckworth asked if they would also have to come back to the ZBA.

Bill Lunt said that the lighting issue was the PB's.

Becca Casey was comfortable. She had the same thoughts as Walther Arsenault. She thought landscaping would really enhance the site.

Heddy Snyder said she was fine with the lighting and screening for parking because the applicant gave reasonable logic. For the record, with regard to landscaping, that was different because of the budget. In the future she would like to see reasoning that was not entirely financial.

Ethan Croce said financial capacity was part of the criteria for PB approval.

Bill Lunt asked if they needed proof of financial adequacy.

Ethan Croce said that it wasn't a requirement of site plan review. There was no reason why the PB couldn't attach conditions of approval.

Bill Lunt said if that were the reason it would get a no vote. He said they weren't requiring the work to be done on a normal site plan, so why would they need a landscape architect? His reason had nothing to do with money. He didn't think they needed an architect based on what they were going to grant or not.

Heddy Snyder said that she agreed that the landscape architect was not necessary.

Becca Casey moved to grant the three waivers requested; Heddy Snyder seconded.

Bill Brogan asked if they were giving approval for lighting plan or requirements.

Bill Lunt said if they waived the lighting plan, they could put in the condition that they can't use it for public use without the lighting.

Motion carried 5-0.

Ethan Croce pointed out the issue with overhead utilities.

Bill Lunt said it was not an absolute requirement. It was up to the Board. They didn't have to bury it.

Bill Brogan said it wasn't out of the ordinary since there were power lines across the street.

Planning Board Minutes

June 7, 2011

Page 8 of 8

Becca Casey said what was existing wouldn't be touched.

Walther Arsenault said they weren't making anything worse than what was there.

Bill Lunt said he didn't have a problem with that.

Ethan Croce read the conditions of approval. He said he wasn't sure if a condition was necessary since it was part of the BZA's approval in speaking to the expansion of the use of the storage building.

Bill Lunt said it didn't hinder anything, just made it clear. He thought it was a good idea. Becca Casey agreed. He asked if that would cover the issue of lighting with Bill Brogan's issue.

Ethan Croce said since it was daylight hours that were enough, but he could add a separate condition.

Bill Brogan said it was enough.

Bill Lunt asked if there would be a condition of change of use that would require them to come back.

Becca Casey said it would trigger if they opened it up to the public.

Ethan Croce said any expansion of use would require approval by the BZA and going before the PB for site plan approval.

Becca Casey moved to approve the application with the conditions as read by staff; Bill Brogan seconded. Motion carried 5-0.

Meeting adjourned at 8:22 pm.

Respectfully submitted,

Jon Planer

Recording Secretary