

**FALMOUTH PLANNING BOARD MEETING MINUTES  
TUESDAY, SEPTEMBER 6, 2011, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

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

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Ethan Croce (Senior Planner)

Meeting started at 6:32 pm.

**1. Approval of August minutes**

Becca Casey moved to approve the minutes; Bill Brogan seconded.

Bernie Pender amended the minutes.

Minutes were approved as amended 5-0.

**Administrative Action Items**

**2. Barton Weisenfluh** – 17 Stonewall Way – Request for a private way amendment to allow additional clearing on Lot B. Tax Sheet 170; Map-Lot R08-035-005. Zoned Farm & Forest, Highland Lake Overlay and RCZO.

**3. Town of Falmouth** – Request for site plan approval of a parking area at Hadlock Community Forest. Tax Sheet 120; Map-Lot R06-053. Zoned Farm & Forest and RCZO.

**4. Nostalgia Lighting** – 234 Middle Road – Request for approval of a new sign. Tax Sheet 234; Map-Lot U23-002. Zoned MRSD.

**5. Acapello Salon** – 215 US Route 1 – Request for approval of two new signs. Tax Sheet 320; Map-Lot U11-035-A. Zoned SB-1 and Village Center Overlay.

Becca Casey moved to approve the items; Bernie Pender seconded. Motion carried 5-0.

**Agenda Items**

**6. Wal-Mart Stores, Inc.** – 206 US Route 1 – Request for site plan review for a proposed expansion. Tax Sheet 320; Map-Lot U52-002. Zoned SB1 and Village Center Overlay.

Bill Lunt opened a public comment period.

Town Councilor Bonnie Rodden of Shoreline Drive serves as a member of the METRO Board. She spoke about the proposed bus shelter. She urged the Board to put the bus shelter in the right of way on Clearwater Drive. She understood that there were legal issues with doing so. She thought the critical objection on the part of the Council was that Councilors didn't want to fund the shelter and its maintenance. She thought Wal-Mart has gone out of its way to have an attractive bus shelter. The Planning Board should make sure that the bus shelter be both lovely and functional, with covering over

the top, back and sides. She thought having the shelter in the right of way was in the best interest of the riders and the town. She thought the Council would go along with this if the alternative was the disruption of the buffer.

Public comment period closed.

Phil Saucier of Bernstein Shur, representing Wal-Mart, felt there were 6 or 7 remaining issues that they wanted to address. He said that there was a change in the architecture on the corner that faces the ice arena.

Bill Broyden, architect from BRR Architects, presented the change in the architecture. They have added an element that wraps around the corner with a feature very similar to the other features in the back. The overall appearance is much enhanced. The features on the front and side of the building are now tied into the rear façade.

Mr. Saucier addressed the staff comments. They feel there are a number of conflicting guidelines. They have complied with the 35 feet height maximum all along the building façade except for a span of 30 linear feet which reaches 42 feet high. This span is to screen the HVAC apparatus and he felt it was more attractive.

Bill Lunt didn't think the Board had the authority to allow that just because it looks good. They need a legitimate reason to allow it.

Mr. Saucier said they have flexibility due to the allowances for steeples and cupolas that enhance the visual attractiveness. This part of the façade is treated differently.

Mr. Broyden said the architectural aspect is one of two things that they think grounds this decision. Practically, this is the main entry, and behind the parapet are two rooftop units that control cooling and heating. One is 10 feet high; the other is 12 feet. This treatment screens those elements.

Becca Casey was comfortable with the treatment; she understood that those are existing rooftop units and they don't have the option of moving them.

Mr. Saucier said the guidelines mention that flat roofs are allowed as long as they are no sections longer than 50 feet without a break. Given the size of this building, the longer spans of flat roof seem appropriate.

The Board made no objection.

Mr. Saucier spoke about lighting. Staff mentioned that floodlights are prohibited. The light that staff had mentioned is an emergency light.

Mr. Broyden seconded that comment. These are strictly emergency lights, and would only be used during an evacuation of the building. The regular exit doors have a shoebox light that shines down on the stoop.

The Board made no comment.

Mr. Saucier spoke about the requirement for the reduction of lighting in the parking lot to .2 fc after the store is closed. Wal-Mart is not comfortable with this level. They felt this guideline is conflicting. On one hand it states .2 fc, and in the same box it says that "*Illumination levels should be the minimum needed to provide safe conditions as currently defined by the Illuminating Engineering Society of North America (IESNA)*". The IESNA's current standard is .2 fc for the basic and .5 fc for security, and notes that certain retailers are comfortable with a 1 fc level. Wal-Mart wanted a 1 fc level. They have staff working 24 hours a day, and they are concerned with safety. They are also concerned with liability.

Bernie Pender asked if this was for the entire parking lot. Mr. Saucier said yes.

Bernie Pender asked if they were going to use the entire parking lot after hours.

Mr. Saucier said there would be staff there all night. He said it is a big enough lot that people could be crossing it all night. .2 fc is not considered safety lighting by the IESNA. People have been mugged in parking lots. The current safety standard is .5 fc.

Bernie Pender asked about Mr. Saucier's reference to muggings in parking lots. He wondered what the lighting was in those lots. Mr. Saucier wasn't sure but he thought it was below .5 fc.

Bernie Pender asked about lighting the employee parking area as opposed to the entire lot.

Mr. Saucier said the employee parking area is used to segregate parking during business hours. He pointed out that they meet the maximum limit of 1.5 fc.

Bernie Pender asked if they were looking to carry this lighting along the back part of the building.

Mr. Saucier said no, just the main lot and the two side lots. There would be some bleed around the building.

Becca Casey wondered if it was reasonable to have a lower light level in most of the parking lot, but a higher level in the center, or closer to the entrances. She would condone .5 fc.

Collin Hewitt from Hewitt Engineers, the electrical engineer and lighting designer for the project, discussed the lighting standards of the IESNA. He agreed with the client. He was concerned with liability and didn't want to stamp the plan at a .2 fc average.

Heddy Snyder asked about the two different standards referenced in the IESNA. There is a parking lot standard and the regular standard. She asked which standard the guidelines are referring to.

Mr. Saucier thought it referred to the parking lot standard.

Ethan Croce didn't think there was a conflict. He read the guideline about the IESNA as referring to lighting in general on the site. The .2 fc is referring to parking lots specifically.

Becca Casey said the lighting level around the building is going to be higher than in the parking lot. Mr. Hewitt said it will be higher at the entrance to the building, as well as at the other exits.

Heddy Snyder wanted to know what the light level is in the parking lot during operating hours. Mr. Saucier said the average does not exceed 1.5 fc in the parking lot.

Mr. Hewitt said they lowered the light poles and reduced the wattage, which reduced the average fc level throughout the parking lot.

Walter Arsenault asked them to clarify that they would prefer to keep the lights on at 1 fc. Mr. Hewitt said that was correct.

Bill Lunt said the reason for the low light levels on Route 1 was in consideration of the surrounding area. He understood the safety issues. He didn't know where the .2 level came from, but the safety standards are .5 and they are asking the Board to allow 1 fc, more than twice what the standards call for. He thought they could reasonably discuss the .5 level. He asked, if they were concerned at having the light levels low in the front and side lots, why they were not concerned about the light levels along the back of the building.

Mr. Saucier said they are only talking about parking lots.

Ethan Croce said the Board has some flexibility if they felt higher lighting was called for along the back of the building for pedestrian safety.

Bill Lunt felt allowing the .5 fc level was reasonable and since it was the safety standard Wal-Mart should not have a liability concern.

Becca Casey agreed with the .5 level. She wondered how they pulled the pedestrian areas, like the entrance and the walkways, out of the average. She thought higher illumination might be allowed in those pedestrian areas.

Mr. Hewitt said they couldn't pull those out of the parking lot, but they could pull out the sidewalks along the back and the sides. He was agreeable to the .5 fc average covering just the parking area.

Heddy Snyder asked if anyone has measured the current light level in the parking lot. Mr. Hewitt said he hadn't.

Mr. Saucier said Hat Trick Drive is a roadway and would be allowed to be lit brighter. They will discuss this issue with their client and bring it back.

Bill Lunt asked about the lighting along Clearwater matching the lighting on the opposite side of the street.

Mr. Hewitt said they will do everything they can to match the amount and type of light to the pole on the other side of the street but theirs are LED lights.

Mr. Saucier discussed the staff comments about the landscaping on the end aisles. They have returned all but three of the end islands to the plan, but they still object to those three due to the handicap parking.

Bill Lunt asked about the width of the roadway in front of the building in relation to those islands. He thought the wider roadway encourages people to move quickly, and without the islands he was concerned that people will be walking out directly into that roadway.

Steve Ribble, landscape architect from Context by Design, spoke about the islands. The design they have leaves 8-10 feet between the edge of the parking space and the drive aisle. They feel that these areas are a refuge for people to go and stand outside of traffic areas and are purposely located directly across from entrances. They are accommodating the request for more landscaped end islands. They are opposed to installing end islands in those three areas. They have reduced the width of the main aisle across the front of the store an additional 6 feet. It is now down to 32 feet wide. Except for the pedestrian bump out at the entrances, there are two travel lanes and a 7 foot wide fire lane.

Bill Lunt asked about the total width from the curb to the islands.

Mr. Ribble said it is 32 feet, 25 for travel, and 7 for the fire lane.

Bill Lunt didn't understand why they have islands where people get out and walk around the island, but they don't have any barriers where there are handicap accessible spaces. In those locations people can walk directly out into traffic.

Mr. Ribble said there are 8 to 10 feet from the parking space before they get to traffic. These people need additional space for handicap accessible vans and apparatus.

Bill Lunt observed that the drive aisle narrows at the entrances. He felt traffic would move away from the building and through that 8-10 extra feet and there would be no protection for the pedestrians since there are no islands.

Mr. Ribble said there are 6-inch, 3 foot tall concrete bollards. There are some visual clues for people not to drive there.

Becca Casey said there is a light post in the lane that separates the drive aisles from the parking. She would like to see where the bollards are; the light post isn't enough. She was concerned with vehicles pulling around a stopped vehicle in the drive aisle in front of the entrance. She would like to see the bollards on the next set of plans.

Mr. Ribble said this is the standard preferred layout that Wal-Mart likes to see in these areas. There are pedestrian crossing signs in this area as well. He agreed that the lamppost would not be enough in itself. The sidewalk does protrude in the opposite lane at the entrance but part of the reason for what they have done is the progression of repeating elements. The series of elements along the way helps drivers track.

Bill Lunt asked if the bollards are permanent.

Mr. Ribble said yes, they are embedded concrete. He agreed to provide more detail on those in the next submission.

Becca Casey asked about the area in front of the entrance. She wanted to discuss the striping; she would like to see it match other locations.

Mr. Ribble said they had agreed with the peer review comments in that area.

Mr. Saucier discussed signage. They have filed an application with the BZA regarding the size of the existing sign, which is scheduled to be heard at the end of this month. The results of that meeting will be available to the Board at the next meeting. The guidelines do not allow for the proposed signs identifying the "Market & Pharmacy" and "Outdoor Living" departments that are within the store. They feel the guidelines treat large stores and small stores differently. A similarly sized building elsewhere on Route 1 would have 6-7 signs along this expanse; they are asking for 3. Currently there is a Regal sign as well as a Wal-Mart sign. They feel these signs are directional in nature, allowing customers to locate different parts of the store. He felt they didn't detract from the façade, but instead blend in.

Walter Arsenault asked if they are signs or mounted letters. Mr. Saucier said those are treated the same under the ordinance, but these are letters on the wall and are not lit.

Bernie Pender thought there was only one entrance along the front of the building. Mr. Broyden said there was an entrance at the garden center during the summer.

Bernie Pender didn't think they were directional; people still have to go in the front entrance.

Mr. Saucier said they are only asking for two; "market and pharmacy" is one sign, they are asking the BZA for the main sign, and the "outdoor living" sign is over the garden center entrance.

Mr. Broyden said the store is 500 feet wide. It would be a hike for a person to park on the opposite side to reach the garden center.

Bernie Pender thought they weren't naming the signs correctly; they are not directional signs. There is only one entrance. The garden center entrance is not a full-time entrance.

Mr. Saucier said they felt they were directional, given the size of the building.

Heddy Snyder pointed out that they can all agree that "market and pharmacy" does not point to a separate entrance. She asked when the garden center entrance is available.

Mr. Broyden said it is up to the store manager, but typically 7am to 7pm; it is closed early for security. It is only open in the summer and during Christmas time for tree sales. It is not open in the winter.

Becca Casey felt those signs did orient someone as to which entrance to go into. She felt if she was going to the garden center, she would appreciate the sign.

Bill Brogan agreed with Bernie Pender that they weren't directional. They did not direct vehicles to a different entrance.

Kermit Stanley agreed with Becca Casey; before he parked he would want an indication as to where in the store he was going.

Walter Arsenault agreed; with such a large store the signs help to direct you once you are in the building.

Bill Lunt agreed with Bill Brogan and Bernie Pender; they are not what he considered as directional, with the exception of the “outdoor living” sign, since it has its own entrance. The other sign is not directional as there is only one entrance, and once a person enters the store there will be signs directing shoppers where to go. The intent of the ordinance was to avoid a great deal of advertising along the front of one building. He agreed that it is bigger than the building down the street with signs all along the front, but the intent was to limit signs on one building.

Heddy Snyder agreed that she could be convinced that “outdoor living” is directional, but “market and pharmacy” is not.

Mr. Saucier clarified that this is under the Route 1 design guidelines. He felt this building was not what those guidelines were referring to when they discuss “clutter”. This building is as long as the strip mall across the street; each of the blocks on that building would have a sign for each tenant and that would be okay. This building has only one tenant, and the few signs they are requesting are not clutter. They do feel that those signs are directional. He didn’t feel that people passing along Route 1 would see these signs; these are the Route 1 guidelines and not the Village Center guidelines. The signs proposed are much smaller than what Wal-Mart typically does, in deference to the Town.

Ben Devine, the property owner, thought there was a benefit to the consumer to orienting them. He thought they were going to park in the area nearest the sign that identifies what they are looking to buy. He felt Wal-Mart understands how a consumer approaches the store from their experience doing so many of these.

Mr. Saucier said both the applicant and the Board will take another look at it and address it at the next meeting.

Bill Lunt thought people were going to park as close to the front entrance as they can, and not choose the left side versus right side of the door based on where the sign is.

John Therriault, traffic engineer with the Sewall Company, felt they were okay with most of the staff comments. They have reduced the width and radii of the drive entrance to accommodate fire trucks.

Bill Lunt had issues at the last meeting regarding the entrances to the site from Route 1. He wondered why they needed two-lane entrances. He didn’t feel that they needed a 30 foot radius in that entrance as those were not truck entrances and a fire truck could come in if there was a square corner. This makes a very wide entrance.

Mr. Therriault demonstrated the turning track to Bill Lunt.

Bill Lunt was trying to eliminate some of the roadway area there. He didn’t know how they justified a two-lane entrance and a turning radius as wide as it is. The fire trucks that are turning into the site are coming in from the middle of the road, not from the curb.

Mr. Therriault said that they are not allowed to use the entire roadway. DOT requires them to model the turn using the curb and not the roadway.

Bill Lunt said he was not convinced that they need a 30 foot radius on any of those turns.

Mr. Therriault agreed with Bill Lunt, if the truck turns from the middle of Route 1. He asked if Bill Lunt wanted him to remodel it using a turn from the middle of Route 1.

Bill Lunt said he did. He wanted them to try and make it closer to what the ordinance requires. He felt they were encouraging wide vehicles to use those entrances, which the Board is trying to eliminate.

Mr. Therriault said he would remodel the radius using the model vehicle making the turn from the center lane on Route 1. He wasn’t sure it would narrow it very much. They modeled it based on the DOT requirement.

Bill Lunt said the other turn radius is just as large, and he wondered why. He wanted a better result. He mentioned that there were questions regarding changes to the Kiwi property. He thought the Board could require whatever they wanted legally.

Mr. Saucier said the only thing the Board has authority over is what is before them. Legally the Board can only change what the applicant has Right, Title and Interest over. Further complicating the issue is that Wal-Mart is a leaseholder, and not the property owner. He presented the Board with a redacted copy of the lease. They have the right to use the entrances, but no right to close them. Kiwi has a cross easement to use the curb cut. The radius is being changed in the right of way. The Board can change the radius in the right of way. If Falmouth Plaza, LLC was the applicant it would be different. Wal-Mart has a temporary construction easement for the work being done on the Kiwi property. They understand the ordinance issue, but they don't have the legal ability to do anything. He has provided staff with a copy of their lease. He only has the ability to propose changes on land that Wal-Mart controls, and the Board only has the ability to ask for changes on the land that Wal-Mart controls.

Bill Lunt thought they could tell them to take the radii out completely. He asked if the Board could limit the entrance to prohibit left-hand turns into the property.

Ethan Croce said yes, according to Town Attorney Bill Plouffe. Mr. Plouffe said they can modify the entrance to match the Wendy's entrance as well.

Bill Lunt was leaning toward eliminating one more of those left-hand turns. That turn takes place directly across from the entrance to the property across the street. He thought traffic in that area of Route 1 is an issue. He wanted the Board to address those traffic issues.

Mr. Saucier said they could discuss that issue with the property owners in question.

Bill Lunt observed that, if this was a new site, they would not get this entrance as it is.

Ethan Croce thought staff could discuss this with the traffic engineer peer reviewer, the fire chief and the applicant to come together with another design that would make everyone happy.

Mr. Saucier discussed the waiver requests. Staff and the Board have previously indicated agreement with reduction of parking spaces and one loading bay. Staff supports a waiver on narrowing parking widths. He discussed the propane tank farm; he was disappointed that they had to relocate it.

Mr. Ribble discussed the tank farm and the screening wall along Hat Trick Drive. They noticed that the area along the upper curve of Hat Trick showed plantings on the original plan, which were carried over onto the current plan. Those plantings were not installed, and now that area is grown up with birches and pines that may be 15-20 feet tall. They are proposing to relocate those planned plantings, and likely modify the species, to use as the screening for the propane tanks. The area is a wetland area, though he didn't know if it always had been or had become one. They don't want to disturb it. This way they will not excessively exceed the required plants for this project.

Bill Lunt asked if the plantings around the tank area would be seasonal or year round screening. Mr. Ribble said they would use the proper plants to screen the area.

Mr. Saucier said they would show this on the next plan. They have submitted the construction easement with the Kiwi property. They have shifted the sidewalk construction along the Doten parcel slightly so that they no longer need an easement there.

Bill Lunt asked if the applicant is comfortable with the issues on the peer reviewer reports. Mr. Saucier said they feel that they have either met them, have heard from the Board about them, or staff has addressed them.

Bill Lunt asked about the bus stop. He felt the original plan was a good thing, but he wasn't sure they could do it without the Council. He asked if they have an alternative that shows the shelter on their property. He would like to see it out on the right of way.

Mr. Saucier said they can show it on their property. They prefer to have it in the right of way, but they feel that it is out of their hands. They will put it where the Town wants it to be.

Becca Casey would prefer to see it in the right of way. She would like to preserve the buffer. Walter Arsenault and Bernie Pender agreed.

Ethan Croce said if the applicant wanted to address the Council regarding this issue they could discuss it with Town staff to have it placed on the Council's agenda in September. Planning staff are currently discussing the issue with the Town Manager and the Director of Public Works.

Becca Casey asked about the maintenance of the shelter and whether Wal-Mart could agree to maintain the shelter. Mr. Saucier said they haven't had time to discuss that issue. They will talk with Ethan Croce.

Bill Lunt thought the Board was ready to express their preference for the shelter to be in the right of way. The applicant could bring that to the Council. If they can move quickly they may be in a position to get it before the Council in September.

Becca Casey moved to table the application; Heddy Snyder seconded. Motion carried 5-0.

**7. OceanView Retirement** - 20 Blueberry Ln. – Request for a site plan amendment for additional parking. Tax Sheet 310; Map-lot U27-013B. Zoned RCOD.

Chris Wasileski presented the Board with a detail showing the location of the west carport.

Ethan Croce summarized the application. While the sidewalk in the northerly parking lot was added back to the plan, they are now proposing that it be flush with a stamped, red brick pavement. This is to allow for easier winter maintenance, flexibility for traffic exiting the carport, and because they don't feel it will be used that often.

Rick Licht of Licht Environmental Design presented the updated plan. They have added landscaping along the entrances to the western carport. They will be keeping the cluster of trees to provide buffering along unit 60. They will add additional landscaping should the owner of that unit request it. In regards to the north lot, they are proposing to reinstall the sidewalk along the stone wall, and a five foot sidewalk, at grade, with stamped pavement and painted red. This is the north residence door; it is locked and is not used very often. They want to keep that walk at grade to allow residents more room to access the garage, and allow easier plowing. They don't feel it will see much use.

Becca Casey thought ideally it would be separate from the traffic. She asked to continue the stamped colored concrete through the crosswalk. Mr. Licht said they would agree to that.

Bill Brogan was not sure this was sufficient. He thought if it was an at-grade sidewalk, there was nothing to prevent people from parking there. He didn't think they want cars moving across a pedestrian way.

Mr. Licht said this was not a normal route; it is very infrequently used. They are promoting this area as non-parking along the walk.

Bill Brogan felt the traffic movement is the only reason for keeping it at grade. He thought they needed to prove that they couldn't accommodate that traffic if it wasn't at grade.

Bill Lunt observed that, if they installed a 5 foot wide sidewalk, they would have 19 feet from the face of the carport to the curb. Mr. Licht thought it was 20 feet.

Bill Lunt said there was 24 feet on the plan. Becca Casey said the plan says "24 + 5" for the total width.



Mr. Licht said it is 29 feet from the front of the building to the curb.

Bill Lunt felt that 24 feet coming out of that garage should be enough without the sidewalk being at grade. He felt they should put the curb in there. Mr. Licht said they would go along with what the Board wants in this area.

Becca Casey agreed with Bill Lunt; the ideal situation would be to have a curb along there. The Board agreed.

Matt Teare of Oceanview asked how wide the curbed walk would be. Mr. Licht asked if the Board was okay with 4 feet.

Bill Lunt asked if 4 feet was allowable for ADA. For a roadway sidewalk it is 5 feet. Mr. Licht said 4 feet was acceptable, as long as the requisite setback is met at the ramp.

Becca Casey felt they should meet the minimum requirement for ADA.

Bill Lunt asked if any of the changes to the landscaping that they made to meet the request of the owner of unit 60 affected the site plan approval.

Ethan Croce suggested a condition of approval that any changes to the landscape meet with staff approval. If they are meeting the minimum buffering requirements of the ordinance on their plan, that should be acceptable.

Bill Lunt said the Board is adding a condition that the sidewalk be 4 feet wide and raised.

Becca Casey moved to approve the application with the conditions as noted by staff and with the condition that the sidewalk be provided in the configuration shown but with the addition of a curb and that the width may be reduced to 4 feet as long as that is within ADA compliance. Heddy Snyder seconded. Motion carried 5-0.

**8. Kame Terrace, Inc.** – 3 Hemlock Cove Rd. – Request for an amendment to the Kame Terrace Subdivision. Tax Sheet 100; Map-Lot R08-045. Zoned Farm & Forest and RCZO.

Ethan Croce said the applicants are looking for a one time lot split as allowed under the ordinance. Staff asked them to identify high-value and low-value wetland on the recording plat, but feels this issue can be handled as a condition of approval. The Town Engineer is asking for a drainage easement for the culvert under Hemlock Cove Road. The applicants have requested a series of waivers: the first is to consolidate the three-stage approval process into one approval; the second is for installing sidewalks on the public street from which the two new lots will obtain their access; the third is for the hydrogeological survey proving that sufficient water is available for the two house lots and that a nitrate plume analysis be conducted to prove that there will be no adverse groundwater impacts to abutting lots; and the fourth is for topographical mapping on the other side of a ravine that crosses lot 5. Staff feels the last waiver is justified based on the size of the building envelope on the adjacent property, and because they have demonstrated sufficient net buildable area.

Les Berry of BH2M presented the application. The four lot owners formed a corporation; each built on their lots, and retained the 5<sup>th</sup> lot, the majority of the property, as a corporation asset. They now want to dissolve the corporation and divide lot 5 among themselves. They want to use the one-time lot provision to divide it into two lots. They are coming off Hunter's Way with the two new lots; Hunter's Way doesn't have sidewalks, so they would ask to not have to build them for the new lots. Regarding the hydrogeological survey, all the existing lots have wells, and they don't anticipate any issue with the wells. Regarding the nitrate plume, he explained that the project is internally drained. A stream bisects the land, and so the runoff and groundwater generally goes to the stream. These are big lots and he didn't see any issue with nitrate draining on abutters. Regarding the topographical mapping, that corner is on the other

side of the stream and wouldn't be used for anything. They are agreeable to moving the building envelope away from the stream.

Bill Lunt asked about the nitrate plumes; three of the four existing lots have existing drilled wells, but there is no well shown for the fourth lot.

Mr. Berry didn't know why it isn't marked; they can fix that. There would be no connection with the proposed lot as it is across the stream from it.

Walter Arsenault asked the applicant to clarify what they are doing.

Mr. Berry specified that lot 5 was 29 acres and left in ownership of the corporation, which was jointly owned by the lot owners. It is not open space. They now want to dissolve the corporation and divide the lot using the one time exempt lot provision. They are changing it from a five lot subdivision to a six lot subdivision.

Bill Lunt asked about the portion near Blackstrap Road and whether it will be merged with lot 4. Mr. Berry said yes it will. That lot line will be eliminated.

Bill Lunt was concerned that the plan is showing the lots in their current configuration with the lot lines.

Ethan Croce said they could add a note to the plan that the lots in question are going to be merged. They could also show a plan with the ultimate, post-merger configuration.

Bill Lunt would prefer that they show the final configuration on the final plan. He didn't want to have confusion later on when someone looked at the plan.

Bernie Pender asked if any portion of the road is a private way. Mr. Berry said no, it is all a town road.

Bill Lunt said Hemlock Cove and Hunter Way are both public roads. He said he was not comfortable waiving the requirement to prove that there is sufficient water for the new lots. He suggested a condition that they cannot acquire a building permit until they have water on the lot in question. Mr. Berry agreed to that condition.

The Board discussed the waiver on the nitrate plume study. Mr. Berry said they have a lot of room on these lots; DEP suggests 100 feet of separation between septic systems and wells.

Ethan Croce said there are two different standards. The 100 foot separation is a state requirement; the waiver they are requesting is from the ordinance requirement for a nitrate plume analysis that shows that the levels of nitrates will not exceed 10 mg/liter at the external property lines of the subdivision.

Heddy Snyder asked if the ordinance requirement covers the entire subdivision.

Ethan Croce said they wouldn't require them to study the entire subdivision as the rest of the lots are built out; they would just study the two new house lots.

Heddy Snyder wondered if they could make a condition that this study must be done before the building permits are issued, the same as the wells.

Bill Lunt thought they were asking for permission to waive the study altogether.

Mr. Berry said they are looking at a limit of 10 mg/liter at the boundary of the subdivision. There is no way they will reach that amount at the boundary of the subdivision, based on the drainage and size of the property.

Bill Brogan said that the standard is more appropriate to a smaller property and smaller lots. He thought they should clarify the size requirement that would allow someone to receive this waiver, to address future applicants that might come in.

Bill Lunt observed that this Board can't commit another board anyway, so setting a precedent is not as much of an issue. He thought the waiver was justified based on the size of the lots.

Bernie Pender asked if the stream was an issue in regards to this test.

Bill Brogan said they would have to meet the 100 foot setback from the stream. He was fine with allowing the waiver, but he was concerned with setting a precedent.

The Board indicated approval of the waiver on the nitrate plume study.

Bernie Pender was not comfortable combining the approval process; he wanted to see a final, corrected plan with the lot lines removed and the well shown before they approve it. After some discussion the Board felt comfortable approving it with a condition that corrected plans meet with staff approval.

Public comment period opened;

Kevin Hooper of Hunter Way indicated the location of his home on the plan along with the location of other neighbors' homes. He recommended that the two new parcels adhere to the recommendations and declarations of the Fox Run subdivision, due to their proximity to his neighborhood. He discussed the referenced recommendations, which he didn't feel were too harsh. While he didn't have any concern about the current property owners, he wasn't sure who would eventually develop these properties.

Walter Arsenault asked if Kame Terrace has its own set of regulations. Mr. Hooper said he didn't know.

John Fossum, president of Kame Terrace, said they do have regulations that were set up when the subdivision was created in 1985.

Bernie Pender asked how they would take their frontage.

Mr. Hooper said they would take their frontage off Hunter Way, which is in the Fox Run subdivision.

Heddy Snyder asked if it was a buildable lot. The neighbors indicated that it is. She asked which road it takes its frontage from.

Mr. Hooper said it touches both Hemlock Cove and Hunter Way.

Bill Lunt asked how lot 5 could take its frontage to be a buildable lot.

Ethan Croce said where you get your frontage from doesn't dictate where you place your house on a lot. Technically, they could take their frontage off one town road, while building on the other side.

Bill Lunt asked if the Board could allow the lots to get their frontage off the road in the abutting subdivision.

Ethan Croce said he thought so, though he didn't think it had ever been done before.

The Board debated whether they could legally put the restrictions Mr. Hooper requested on these lots even though they are not part of the Fox Run subdivision.

Mr. Hooper argued that the existing lot could access either Hemlock Cove or Hunter Way. He asked if proposed lot 5 has the appropriate lot width. In the Farm and Forest District the minimum lot width is 250 feet. He wondered how they measure the lot width for this lot in this configuration. He wasn't sure this met the intent of the ordinance.

Bill Brogan said the lot width is measured at the setback distance parallel to the front lot line. Ethan Croce agreed.

Bill Lunt said that, according to the staff, it does meet the ordinance.

Mr. Hooper said the ordinance says that side lot lines should be substantially at right angles or radial to street lines. The split of lot 5 didn't have to have this kind of angle. The submitted plan has conflicting

setbacks. He asked about the wetlands and the driveway. He wondered how the driveway is going to fit it there. If the wetland is a high-value wetland, the driveway will have to be 50 feet away from it.

David Reed of Hunter Way indicated that there are two ponds and a stream which drains into the Presumpscot. He didn't know if that affected how the wetlands are treated.

Bill Lunt said the driveway can cross the wetlands. The building envelope would be affected by the wetlands but not the driveway.

Ethan Croce said there is a provision for road crossings of wetlands and their buffers. Section 5.38.5 states the exemptions that allow a driveway to cross a wetland.

Mr. Hooper said the proposed design isn't the only way to subdivide that property. They are not opposed to the development but didn't want it to affect their development.

Bill Lunt observed that the building envelope on lot 5 will be moved back from Hunter Way. He wasn't opposed to a condition that the buildings are compatible with Fox Run, but he wanted to make sure they can legally do that.

Mr. Reed agreed with Mr. Hooper that they didn't want to oppose the development. The proposal is for each lot to contain one single house. He wondered if they could possibly be further subdivided

Bill Lunt clarified that if they do anything else, it would become a conservation subdivision and they would have to come back to the Board. This one time exemption limits what they can do.

Mr. Reed was concerned that only one single house would be allowed on each lot.

Bill Lunt said that the only way to have more than one living unit on a lot would be to get approval for an accessory dwelling.

Chris Lucas of Fox Run Road said when they purchased their home they understood that this lot was green space. A new house would be behind them. He was concerned with how close that was going to be and how visible it would be. He was also concerned about preserving the stream.

Public comment period closed.

Heddy Snyder moved to approve the first waiver, consolidating the required review stages into one hearing. Bill Brogan seconded. Motion carried 5-0.

Heddy Snyder moved to approve a waiver from the sidewalk requirement. Becca Casey seconded. Motion carried 5-0.

Heddy Snyder moved to approve a waiver from the requirement for a hydrogeological evaluation with respect to water supply, with the condition that prior to the granting of any building permit on lots 5 or 5a, they have adequate water supply as stated in the ordinance. Becca Casey seconded. Motion carried 5-0.

Heddy Snyder moved to approve a waiver from the requirement for a nitrate plume analysis; Becca Casey seconded. Motion carried 5-0.

Heddy Snyder moved to approve a waiver from the requirement for a topographical analysis; Becca Casey seconded.

Bernie Pender asked if the 4 lot owners own the lot, if they can then use the exempt lot split again on that lot. Ethan Croce said no, it is based on the lot and not the owner. This is the one time split for this lot without triggering conservation zoning.

Motion carried 5-0.

Becca Casey asked the staff's opinion on the lots meeting the requirements of the Fox Run subdivision.

Ethan Croce said there is some question of legality. He has never seen the Planning Board impose conditions from one subdivision on another subdivision. Requirements on square footage are typically imposed by the developer and not the Board.

Heddy Snyder observed that imposing those requirements would require amendments to the declaration.

Bill Lunt thought the amount of land in question would indicate that a decent size home would be built on it. He didn't think it within the Planning Board's purview to impose size limitations on the home.

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

**9. Gordon & Laurie Oliver** – 194 Foreside Rd. – Request for approval of a private way to serve one lot. Tax Sheet 164; Map-Lot U14-008. Zoned RA and RCZO.

Ethan Croce said he had correspondence with the applicant in which they addressed his minor issues.

David Titcomb of Titcomb Associates said the applicants have owned the property since 1986. The parcel is relatively flat, and consists of 1.36 acres. He discussed the configuration of the lot. They are proposing creating a new lot at the front with access off Foreside Road, serviced by public water and sewer. The private way will provide access for the existing home on the rear lot by expanding the right of way for the existing Ricker Road to the required 50 feet. There will be no physical changes to Ricker Road; an engineer has confirmed that it currently meets the standard for a one-lot private way and there will be no further demand on it. They are proposing a hammerhead at the end of Ricker to provide emergency turnaround access.

Bill Lunt asked who had fee ownership of Ricker Road.

Mr. Titcomb explained that, when the lots were created 1889, Falmouth Cottage Company owned the property and granted rights to the property owners. As far as they can determine, Falmouth Cottage Company still owns the fee in the road, but all the owners have the right to use it. If they were expanding the use of Ricker there might be some legal issues, but since the use of Ricker Road will not change as a result of this proposal he felt there is no issue.

Bernie Pender asked about the turnaround.

Matt Oliver, property owner, said there are no turnarounds. The road is a dead end; it comes to an end behind the rear lot and becomes a driveway after that. He thought it was about 700 feet from Foreside to the end of Ricker.

Bernie Pender wondered if that was an adequate distance for a turnaround.

Bill Lunt said it was a nasty turnaround, but since they are not changing the use of Ricker, he didn't feel it was within the purview of the Board to change it. He asked about fee ownership of the private way.

Mr. Titcomb said the first section would be owned by Lot 1, and the back portion by Lot 2. Ethan Croce confirmed that this design met the ordinance.

Bill Lunt asked if the hammerhead was on lot 2. Mr. Titcomb said that was correct.

Bernie Pender asked if there was an existing maintenance agreement for the road.

Mr. Titcomb and Mr. Oliver said there is no maintenance agreement. The road has been there for about 100 years.

Becca Casey observed that it isn't changing. The new lot will take its access off Foreside.

Bill Lunt felt it wasn't relevant, as Lot 2 already exists. He asked about the line at the bottom of the plan.

Mr. Oliver said it is a driveway.

Bill Lunt asked if lot 2 has two driveways. Mr. Oliver said yes, but one will go away. Lot 1 will have no access to Ricker Road.

Bill Lunt asked about the long, narrow strip of Lot 1 that extends along the side of Lot 2.

Mr. Oliver said that was to meet the 20,000 sq footage minimum for Lot 1. Mr. Titcomb said that it was to meet the net residential area for that lot. They can't count the 30 feet of the private way. He said there was a setback issue with the existing home and that was why they didn't move the lot line back. The setback is measured from the edge of the private way.

Ethan Croce said they could move the lot lines of Lot 1 back so the private way was straddling the lots.

Mr. Titcomb said the problem was net residential area, and that wouldn't help with that issue.

Bernie Pender asked if they are proposing another entrance on Ricker Road. Mr. Titcomb said no, and there will be no change to the curb cut on Foreside Road.

Bill Lunt asked if Lot 2 was on sewer.

Mr. Oliver said both lots would be served by public water and sewer. He indicated on the plans where the service would come for both lots. There would be a new lines brought to serve Lot 2.

Bill Lunt asked if that new water line would require any changes in the construction of Ricker Road. Mr. Oliver said yes, but the Town Engineer approved that as long as the road is brought back to the standards of a one-lot private way.

Ethan Croce said that the Town Engineer went to Ricker Road and confirmed that it met the requirements for a one lot private way.

Ethan Croce read the conditions into the record.

Public comment period opened; no public comment.

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

**10. OceanView Retirement** – 20 Blueberry Ln. – Request for sketch plan review of a proposed expansion and renovation of Falmouth House. Tax Sheet 310; Map-lot U27- 013D. Zoned RCOD.

Tabled due to time.

**11. Cumberland County FCU** – 101 Gray Rd. – Request for site plan approval of a proposed building addition and parking lot expansion. Tax Sheet 371; Map-lot U44-001. Zoned VMU and Route 100 Overlay.

Tabled due to time.

Meeting adjourned 10:37 pm

Respectfully submitted,

Melissa Tryon  
Recording Secretary