

**FALMOUTH PLANNING BOARD MEETING MINUTES  
TUESDAY, SEPTEMBER 4, 2012, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Bill Lunt (Chair), Bernard Pender, Jay Chace (Alternate), William Benzing (Alternate)

**MEMBERS ABSENT:** Becca Casey, Kermit Stanley, Walter Arsenault

**STAFF PRESENT:** Ethan Croce, Senior Planner

The meeting started at 6:38 pm.

Bill Benzing and Jay Chace were appointed as voting members.

**1. Approval of minutes from the August 7, 2012 Planning Board meetings.**

Bernie Pender moved to approve the minutes, Jay Chace seconded. Motion carried 4-0.

**Administrative Action Items**

**2. William & Marguerite Ryan** – 175 Foreside Rd. – Request for a Shoreland Zone Permit for a slope stabilization project. Tax Sheet 164; Map-lot U14-040-C. Zoned RA, WVOD, RCZO and LR (Shoreland).

**3. Town of Falmouth** – Mast Rd. – Request for a Shoreland Zone Permit to construct an elevated walkway and observation platform. Tax Sheet 340; Map-lot R09-055. Zoned Farm & Forest, HLOD, RCZO and RP (Shoreland).

Jay Chace moved to approve the administrative items; Bill Benzing seconded. Motion carried 4-0.

**Agenda Items**

**4. D Squared** – 72 Foreside Rd. – Request for a private way amendment to add one additional lot to Vintage Way. Tax Sheet 320; Map-lot U11-022-001, U11-021. Zoned RA and RCZO.

Ethan Croce explained that Vintage Way is a 1 lot private way approved in 2006; the applicant wants to divide an abutting house lot, adding a new house lot to Vintage Way. The travel way would need to be widened to 16 feet up to the driveway of the new lot after which it could remain at 12 feet wide. The extent of construction for the private way improvements are unclear on the plans; the applicant should clarify whether the contours on the plan along the entire length of the travel way represent current conditions or planned improvements and how those are different from the 2006 approved plan. No grading plan for the proposed house lot was submitted but the plans indicate raising the house two feet due to the soils and drainage on the site. The applicant will need a fill permit from the Town if the amount or location of the fill triggers that requirement.

Steve Bradstreet of Ransom Consulting spoke about the history of the application. A 2006 plan note required that any changes to the grade would require approval by the Planning Board. They came back earlier this year for that approval. Also, in 2006 the Town did not require a grading plan of the road, just a profile; the profile they show reflects the design in 2006, and the design today. It does not reflect current conditions as the road is not completed. The grading plan is reflective of both 2006 and 2010 approvals

and shows the grading of both the road and the ditches. Mr. Dresser is looking at selling lot C; in order to avoid having to return to the Board for approval of grading changes for a building footprint he would like to have the buyer come to the Town for a fill permit and/or grading plan once they determine the footprint of the home. Based on Town standards no fill would be allowed within 10 feet of swales or ditches. That area is indicated on the plans so that any buyer will be aware. The proposed lot is an extension of the Heath property and has been traditionally mowed and hayed. They are showing the private way tapering to a narrower width beyond the first house lot. Both lots will have sewer with a low-pressure force main and public water.

Bill Lunt asked if the superintendent has approved the proposed sewer connection. He thought the sewer ordinance said they couldn't have one sewer line for two separate lots.

Ethan Croce said he spoke with the Wastewater Department and there are in fact two different lines; the design has been signed off on by the sewer department.

Mr. Dresser said the sewer department has approved the application; two lines have been run.

Bill Lunt asked for a document from the sewer department to be added to the record. Mr. Dresser agreed.

Public comment period opened.

Mark Donahue with Weston Associates, which developed the Foreside Village's 24 elderly units, said the new home is being built; wetlands have been filled and there are drainage issues onto the Foreside Village property. He and the applicant have met and he thought they had an agreement, but the applicant did not follow through. His property is downstream and he was concerned with more water problems if they raise the house up 2 feet.

Jay Chace wondered if they should have a more stringent stormwater plan developed to understand how the proposed grading will affect abutting properties.

Mr. Bradstreet said when the 2006 plan was approved, stormwater calculations were not required; a stormwater evaluation was required. Additional grading was requested by the Board when they showed a proposed building on the plans. They came back with a grading plan for the proposed building. Because the applicant wants to sell the lot without showing a footprint, they opted to not show the grading. They discuss in the stormwater evaluation how it could be treated. Along the back of the property is a shallow swale that Mr. Heath keeps mowed. It may be only 6-12 inches deep. It collects the drainage from the pond and outlets along the property line of the housing development and out to the Fundy Road system. They anticipate that whatever is done on the new lot, it will drain to the swale in a similar fashion.

Bernie Pender asked about the house under construction.

Mr. Bradstreet said that is on the lot approved in 2006. The footprint was changed, and the grading plan change was approved by the Board earlier this year. The final grading has been done.

Ethan Croce said that Mr. Bradstreet is correct that there is no specific ordinance requirement for stormwater calculations for private way approval. In 2006, the Board had to make a finding that the development met the conditional use criteria including that the project shall not cause drainage issues or flooding.

Mr. Donahue said all they want is confirmation that the new house lot will not put stormwater drainage onto their property. They aren't opposed to development, but the applicant can't increase the stormwater drainage. He wants to keep the drainage into the culvert and off his property.

Mr. Bradstreet said the 2006 plan showed that there is a knoll where the house is located. It was raised 2 feet but it was always higher than all the surrounding properties. He indicated that it shed off in all directions. They installed a berm along the northern boundary of that lot to direct stormwater to the culvert and the pond. They didn't change the direction of flow; previously it was trees and scrub, now it is

a house and lawn. There is no requirement to detain or retain stormwater on site for private way development.

Bill Lunt thought they changed it by installing the berm.

Mr. Bradstreet said the berm stops the water at the property line and directs it to the culvert and then to the pond; before that it flowed onto the abutting property and then back into the culvert. All the water from the abutting property, all the way to the intersection with Depot and Foreside, flows to the pond. That is shown on the Foreside Village plans from 1978, which showed pre-and post- flows for the area.

Bill Lunt asked about the dialog between the abutters and Mr. Dresser.

Mr. Dresser said he bought the property in June 2010 and got a building permit in May 2012. It was a contentious approval in 2006. The property was wet when he bought it in 2010; now it is bone dry. There was a plan in the 1970's that allowed a stormwater drain. He said they found an old stormwater drain in the ground. They put in an outlet, catching the water before it gets to the pond and out-letting it through the stormwater drain. The DEP came to the property and said it is a designated wetland; they may cite him for accepting too much water and draining a wetland. The water is naturally dammed by vegetation and clippings on the Village property. He spoke with Mr. Donahue to see if he could access his utilities from their site. He has reviewed all the abutting properties; they all hold water. He suggested installing a French drain across the Heath lot. He had agreed to pay for the improvements in exchange for pulling utilities, but they wanted him to sign a 'hold harmless' agreement on the utilities, which he didn't want to sign. He therefore ran all the utilities up Vintage Way from the Foreside. He spoke about a recent, large rainstorm when everyone flooded. He had a cost estimate last year of \$6,000; it is now at \$6,500 due to the increase in gas costs. He suggested splitting the cost of drainage improvements based on the size of the lots, but they are currently at an impasse. He was concerned with cleaning out the vegetated area so the water can flow through it.

Mr. Donahue said they didn't want to limit future development based on someone else's underground utilities. The applicant said his property is now dry and Mr. Donahue agreed; the water is now all on his property. He agreed to a 50/50 split on the cost, then the price increased and he was asked to pay 75% of it. The condition has changed, but his property hasn't done anything to cause the problem and he felt the developer should be required to fix it. His company is against the second house if this isn't fixed.

Bill Lunt asked if there was anything in the regulations that would allow the Board to require the applicant to fix the drainage.

Ethan Croce said the private way language in section 5.27g directs the Board to evaluate the conditional use criteria in sections 8.3 and 8.7. He thought the Board could require anything they felt was necessary to ensure compliance with those criteria.

Jay Chace said 5.27e states that stormwater drainage must be approved by the Public Works Director. He asked what is typically required for the drainage.

Ethan Croce said that provision is directed to the design of the actual roadway; that isn't to say that either the Public Works Director or the Town Engineer couldn't speak to other aspects of the application.

Jay Chace thought what the Board is being asked to look at is lot A, which was previously approved and for which permits have already been issued. They are being asked if they can tie in lot A with the approval for lot C.

Bill Lunt thought the neighbor can't stop the natural course of the water flow; the rate at which it flows can be controlled. The applicant said the DEP thought he might be draining a wetland, which speaks to the speed of the water's flow and whether it is moving quicker onto the abutting property.

Ethan Croce said the rate of runoff is addressed in the ordinance for commercial site plan and subdivisions, not private ways. The Board is limited in this case to the general criteria under 8.3 and 8.7.

Bill Lunt said the tricky part is that natural conditions change the direction of the flow over time. When you change the topography of a piece of property and you are the high point, the water flow and rate changes. He felt it would be good if the parties met and worked it out. He asked about the DEP.

Mr. Bradstreet clarified that the DEP's statement about draining the wetland came about as a result of discussions with the northerly abutter; they were considering lowering the culvert and the spillway and that's when the DEP indicated that that might be considered as impacting the wetland on the abutting property. There was a narrow strip of wetland that is now gone; the pond is not considered a wetland. It was designed with a spillway for water retention. It was very wet in the woods along the northern border. The water that comes off lot C does not go to the Falmouth Village property; only the water from lot A goes to that property. The water from lot C goes to an area of grass clippings and is choked. Eventually it flows to a riprap channel and it flows nicely. In the 1970 plan there was supposed to be a detention pond, which was not built.

Bernie Pender asked about the berm.

Mr. Bradstreet indicated the location of the berm on the plan and explained the flow from lot A. A 1-foot berm was installed to prevent flow from lot A onto the northern abutter. He wasn't sure the berm was constructed yet. The berm directs the water directly into the culvert instead of flowing onto the northern abutter and then into the culvert.

Mr. Dresser said the water is now captured by the stormwater outlet that he installed and does not go into the pond. He hasn't seen anything go through the culvert yet, in the two years he has owned it.

Bill Lunt wondered where the water went that was captured by the stormwater outlet.

Mr. Bradstreet spoke about the pipe that was laid in the 1970's, as part of the agreement between the two owners at the time. They fixed that pipe, which was crushed and filled with sediment. The pipe leads to a catch basin and then to Fundy Road. He indicated the location of the pipe on the map. The catch basin is on the Weston property. It was approved by the Town in 1979 and he has the documentation.

Bill Lunt asked if the water from the NE side of Mr. Dresser's property goes through the culvert.

Mr. Dresser said no, it goes to the stormwater outlet. He is not getting water from the abutting property. He has drained the pond, taken out the sludge and gone to the clay base. The water comes from Rt. 88.

Mr. Donahue said they are opposed to the new lot; they are not trying to go back to the old lot.

Mr. Dresser said they are not opposed to putting a drain in, but the water will probably go to the vegetation and clippings and then stop.

Bill Benzing thought it was hard to go back to correct issues with lot A but they can address lot C. He wondered whether they could ensure that lot C is built up the two feet.

Bill Lunt had a problem with creating a new lot and not knowing where the drainage is going to go. He was skeptical of who would be in charge of the grading plan when the time comes. He had a problem approving a lot without knowing where the grading will be.

Ethan Croce said if they are raising the ground 2 feet they would have to get a permit, but if it is less than 2,000 yards of fill, it would be a CEO permit and not a Planning Board permit.

Jay Chace felt if they are charged under 8.3 and 8.7 to weigh "no adverse impact" he would like to see a grading plan that proved that this could have a building lot. He wasn't sure they had enough evidence to sign off on it at this time.

Bill Lunt said they have in the past required that the location of the house is placed on the plan prior to approval. Bernie Pender agreed.

Mr. Dresser presented the Board with photos. He can't guarantee where the water is going to go after the property boundary, due to the vegetation. He said the price he was quoted for the work went from \$6000 to \$6500 in a year. He discussed the plan for the excavator to bring the water to the existing riprap.

Bill Lunt asked how much of the \$6500 worth of work is on the Heath and Donahue properties.

Mr. Dresser estimated 125 feet on the Heath lot, and then 325 feet on the Donahue lot.

Jay Chace said the swale on the back of lot C is 6-12 inches deep; he wondered if it would be able to function with a 2-3 foot rise for the building as discussed.

Mr. Bradstreet said the pricing that Mr. Dresser spoke about included an under-drain with crushed stone and a pipe which would increase the capacity from the swale that is there now. There isn't much of a backyard for the apartments.

Bill Lunt asked if the backyard of the apartments is higher than the Heath property.

Mr. Bradstreet said yes; it drains onto the Heath property and to the swale. The original concern was the backyard along the Dresser property.

Bill Lunt said that the concern area would not change as a result of the new lot. Mr. Bradstreet said no. The 1978 plans show the watershed from the intersection all the way down through the pond coming down to their detention pond; it does not do that anymore.

Mr. Heath said his property is 2 feet lower than the apartments. And it does fill with water when it rains. Part of that water comes from the apartments.

Bill Lunt asked about the drainage from the house. Mr. Heath indicated that the water drains to the back of his property. He discussed the drainage along the boundary of his property.

Bill Lunt wondered if the water problem was caused by the Donahue property preventing the water from going to the riprap area.

Mr. Donahue didn't agree; he didn't think they would be suggesting that the new house be raised two feet if there was no water problem. He is willing to put in half the money to put the drainage in. He doesn't oppose the development; he thought there was enough question that this development might affect his property that they should delay this for a month and let the parties work it out. He is willing to work with Mr. Dresser and pay for part of the drainage to get it fixed.

Mr. Dresser was agreeable to trying to strike a deal on the drainage; he was even agreeable to a limit that the house on lot C must be on a slab in order to avoid raising the house and increasing the drainage issue.

Bill Lunt thought they should table it and allow Mr. Dresser to come back with a grading plan, as well as work on an agreement with the abutter about the drainage. He encouraged the parties to work together on the drainage. The Board agreed.

Jay Chace moved to table the application; Bernie Pender seconded. Motion carried 4-0.

**5. ESW Realty, LLC – 219 US Route 1 – Request for approval of a sign for Dunkin Donuts. Tax Sheet 320; Map-Lot U11-033-A. Zoned SB-1 and VCO.**

No members of the public were present.

Ethan Croce said there is an existing manual reader board that was approved prior to the design guidelines being enacted. The applicant wants to replace it with an electronic reader board. He spoke about the

history of the application. The Community Development Director issued an opinion that the proposed sign violated section 5.13d of the ordinance; the CEO agreed and issued a formal decision to that effect. The Board of Zoning Appeals (BZA) overturned that decision with the stipulation that the message not be changed more than once a day. He spoke about the relevant provisions in Section 5 dealing with traffic safety, as well as Route 1 design guidelines that concern the size of lettering, colors on the sign, sign content and language, and that discourage reader boards generally. The ordinance states that the Planning Board must make a finding that the sign complies with both regulatory documents: the design guidelines and the ordinance.

Jay Chace asked if the Town considered these signs to be internally illuminated. Ethan Croce said yes.,

Jay Chace read the ordinance to mean that internally illuminated signs would be allowed only between 7am and 11pm in SB-1. Bill Benzing agreed with that interpretation, but wondered if the sign would shut down after 11pm.

Bill Lunt pointed out that the guidelines had requirements for number of letters and bits of information; when taken together with the Dunkin Donuts sign, they only have 8 or 9 letters left. This reader board doesn't meet the guidelines at all.

Ethan Croce said the challenge with a reader board is that the Board couldn't evaluate what would be on the sign from day-to-day. This is not how the Board has operated in the past. Not knowing what would be on it would make it difficult to evaluate how it complied with the content guideline. To his knowledge the Board has not approved a reader board sign since the design guidelines were adopted in 1997.

Bill Lunt didn't think the Board has the authority to approve this sign; it doesn't fit the design guidelines.

Bill Benzing agreed that it lost its grandfathered status if it is changed. He wondered if this counted as its own sign, or if it was included as part of the Dunkin Donuts sign.

Brian Rayback, representing the applicant, said they want to replace the existing reader board with an electronic, LED reader board. It has red type on a black background and nothing moves, blinks, flashes, or is animated in any way. There is a photocell that controls the light level based on the time of day. Reader boards are an effective way to communicate with customers. Dunkin Donuts' business is primarily impulse purchases. Electronic reader boards look better than the manual ones; they are safer and easier to manage. They agree that it is internally illuminated, but only the letters are lit unlike the manual reader board which is entirely lit and itself becomes a light source. They feel they meet the standards; reader boards do not create traffic safety issues. MDOT uses these types of signs in construction zones. The conditions placed by the BZA enhance that; no moving or blinking type, and the message will only change one time a day. Section 5.11.g says signs in this zone shall comply with the design guidelines. The guidelines are not permitting standards and he argued that if they are applied that way they would not be constitutional. The standards in the guidelines read "should" in many cases and are vague as to how they should be applied. He also argued that the guidelines place limits on commercial free speech. He thought they should apply the guidelines as advice, and not mandatory standards. They are suggesting replacing a manual reader board with an electronic one of the same size and shape which they feel would be an improvement. They can keep the letters 6 inches tall and the market limits the amount of information; there is only so much information people can absorb as they drive by.

Bill Benzing didn't doubt that they were cleaner and easier to see; he thought the question is whether the new sign follows the guidelines.

Bernie Pender agreed; all the reader boards along Route 1 were placed prior to the guidelines. Whether or not they look good, new signs have to meet the guidelines.

Mr. Rayback reiterated that the guidelines were not enforceable standards.

Bernie Pender said if there is a constitutional issue, he would need to take that somewhere else. Mr. Rayback agreed, but he had to raise it now.

Bill Lunt didn't have a problem with the reader board but the guidelines say "shall" and that was his issue. When taken together with the Dunkin Donuts sign, there aren't enough bits or letters remaining for the reader board to do any good.

Ethan Croce thought that was correct; he said other guidelines also apply, including coloring.

Bill Lunt felt they could overcome the color issue, but he couldn't get past the bits or letters issue. In other places the guidelines say "may" but in this instance it says "shall".

Jay Chace said if the Town considers the Dunkin Donuts panel and the reader board as one sign, then that could be problematic. In this instance the applicant is trying to switch out one kind of reader board with another kind and he would support that. According to the ordinance the sign would have to be shut off during non-business hours. Dunkin Donuts will need to think about the number of characters and bits.

Bill Lunt thought the number of characters would become an enforcement issue. He didn't think they could remain within the allowed number.

Mr. Rayback felt they needed to deal with the other guidelines, including the 'visual clutter', and keeping signs simple in content. He thought it was a struggle to apply those and they were too vague to be applied like an ordinance.

Bill Lunt felt they have covered those issues; he didn't have a problem with the reader board meeting those guidelines. The part he can't get past is the places where the guidelines say "shall".

Mr. Rayback said even the clear numbers of 30 and 7 are qualified by the word "should".

Bernie Pender wondered about changing the sign, by removing the "drive thru" to allow for more content on the reader board.

Mr. Rayback said it is very important to have the 'drive thru' on the sign. He appreciated the comment, but felt they shouldn't be put in that place.

Bill Benzing wondered who enforces it if the sign went beyond the 30 letters/7 bits limitation.

Ethan Croce explained that typically the Board is presented with a specific sign for approval with the content laid out and the applicant has to install the sign according to that approval.

Jay Chace asked Mr. Rayback his interpretation of "should" in this instance. Mr. Rayback said he felt "should" was permissible in the same way "may" is used in the ordinance.

Bernie Pender pointed out that the current sign is not in compliance. When they come in for a change, it is the opportunity to bring them into compliance.

Jay Chace was okay with the change from a manual reader board to an electronic reader board, but he felt the reader board should be limited to 4 bits of information and the size of the lettering should be limited to a certain size. It is a clear distinction for him that there is already a reader board on this location.

Bill Lunt asked about how bits are defined.

Ethan Croce said bits are either symbols or syllables. Based on that definition, the Dunkin Donuts sign already has 7 bits of information.

Bill Lunt said the business is allowed one sign, and that includes the sign and the reader board. The sign is limited to 7 bits in all.

Jay Chace thought the language about bits says “can be” and is vague. He was comfortable in this application with waiving that, with the stipulations that the BZA put into place and that the sign is turned off at night.

Bill Benzing didn’t think they could grandfather it since it is a totally new sign. He was wrestling with the idea of a new sign that didn’t comply with the guidelines.

The Board discussed what constituted a bit; Jay Chace felt a limit on the size of the lettering would restrict the amount of information they could fit on the sign.

Mr. Rayback thought they were looking at 36 sq. ft. for the proposed sign.

Bernie Pender wondered if they would be willing to modify and limit the existing sign.

Mr. Rayback hasn’t discussed this with his client, but he didn’t think they would be. He pointed out that the discussion about the bits argued to the vagueness of the guidelines.

Jay Chace moved to approve the application of ESW Realty with the condition that the lettering be no less than 6 inches tall. Bill Benzing seconded.

Bill Lunt asked about the bits and characters.

Jay Chace said that he felt there were 3 bits on the fixed sign, which leaves 4 bits for the reader board. He wondered how many bits the CEO would consider were a part of the fixed sign. He thought about limiting the reader board to three lines.

Bernie Pender explained that in a previous application where the number of colors was waived, it was for one more color and was a necessity for that business’s logo.

The Board discussed the enforcement of the design guidelines; Ethan Croce was not sure the CEO would have the authority to enforce design guidelines; he also suggested giving the CEO guidance as to how to interpret the bits.

Mr. Rayback pointed out that the guidelines about the one sign panel said one panel “should” be used. He wondered if it would take care of the concern about bits if they considered the reader board as a second panel.

Ethan Croce said that the size restrictions spelled out by the ordinance would be undermined by that; the ordinance limits the sign to 100 sq. ft. and he would be concerned with several 100 sq. ft. signs in a row.

Bill Lunt thought it would be 100 sq. ft. for the whole pylon.

Mr. Rayback thought it was a per sign standard. He didn’t think they were anywhere near 100 sq. ft. even with the two panels.

Jay Chace asked if the discussion about bits and characters came up at the time of the CEO’s denial.

Ethan Croce said it did, but the CEO enforces the ordinance only and they had to get past the “blinking, flashing,” issue before they could come to the Planning Board to evaluate the design guidelines.

Bill Lunt wondered how this would be enforced if they change the interpretation of “bits” from what it has been. According to the guidelines, the “Dunkin Donuts drive thru” sign already has 7 bits on it.

Ethan Croce said the guidelines also state that “*signage advertising products, goods or services shall be prohibited*” and the example of the reader board included with the materials clearly advertises goods; another guideline speaks to limiting the narrative content. These are in addition to the guideline on character/bits.

Jay Chace amended his motion to allow three lines of content on the reader board.

Jay Chace and Bill Benzing withdrew the motion.



Jay Chace felt the guidelines allow the Board some flexibility and he felt it was appropriate to use it in this instance.

Mr. Rayback asked about the banner on the pylon in the photo that doesn't meet the guidelines.

Bill Lunt said the Board has never approved a reader board; the only boards with movable type that have been approved are for gas stations and that is because of the state law that requires them.

Ethan Croce said that the banner in question may have been approved as a temporary sign by the CEO.

Jay Chace moved to approve the application of ESW Realty with condition that the letters be a minimum of 6 inches high and the sign have a maximum of 3 lines of content. Bill Benzing seconded.

Motion failed 1-3 (Benzing, Lunt, Pender opposed).

Bill Benzing moved to deny the application, Bernie Pender seconded. Motion carried 3-1 (Chace opposed).

**6. Kimco Realty, LLC** – 65 Gray Rd. – Request for approval of a sign for Dunkin Donuts. Tax Sheet 374; Map-lot R05-044-004. Zoned WFCMPD and Rt.100 CO.

No members of the public were present.

Ethan Croce said this application is substantially similar to the previous one; the applicant has proposed to replace the existing "Hair Artistry" sign with an electronic reader board. The sign needs to comply with the Exit 10 design guidelines, which are similar to the Route 1 guidelines and include limits of 2-3 contrasting colors, simple and direct in message and content, single panel, reader boards are discouraged, strictly limit narrative content, and 30 characters/7bits of information.

Mr. Rayback, representing the applicant, said this is the same basic set of rules. He stated that many of the arguments he stated for the previous application are relevant and carry forward for this application. This project is set back from Route 100 and partially hidden by trees. The Irving station has a manual reader board advertising gas prices. They feel this would be consistent with the guidelines. Under the zoning ordinance, there is a question whether internally illuminated signs would be allowed in this district; his interpretation, according to section 5.19.a, was that they would be. Jay Chace said in section 1.5 it states "*It is the intent of this Ordinance that any use not specifically allowed as either a permitted use or a conditional use is specifically prohibited*". Mr. Rayback said a sign is not a use.

Ethan Croce agreed with Mr. Rayback that they are allowed in this district. The master plan district was created in conjunction with the design guidelines, which allow internally illuminated signs.

Bill Lunt felt that this is one application, and the current sign is one sign. He felt the same arguments from the previous application are applicable. Also, there is no existing reader board, and the guidelines discourage them.

Jay Chace agreed that, since there is no existing reader board, he wouldn't support installing one in this instance.

Bill Benzing felt it was a new sign and the guidelines speaks to limiting the use of reader boards.

Bernie Pender spoke about limiting the bit count.

Bill Lunt felt it didn't make it because of the reader board issue, since they are not replacing one, and the Board has never allowed them. Also, the bits of information on the sign are beyond the number allowed by the guidelines.

Bernie Pender wondered if this applicant would be willing to modify the sign.

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Mr. Rayback said he hasn't spoken with them, but he thought the answer was no.

Bill Benzing moved to deny the application of Kimco Realty; Bernie Pender seconded. Motion carried 4-0. Application denied.

**7. Discussion and vote on proposed amendments to the Planning Board Rules of Procedure.**

As there were two regular members absent, the Board discussed moving this item to the next meeting.

Bill Benzing moved to table the item to the next meeting, with a deadline of creating finalized proposed amendments by the end of 2012; Jay Chace seconded. Motion carried 4-0.

Meeting adjourned at 9:44 pm.

Respectfully submitted,  
Melissa Tryon  
Recording Secretary