

**FALMOUTH PLANNING BOARD MEETING MINUTES
TUESDAY, MARCH 5, 2013, 6:30 P.M.
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

MEMBERS PRESENT: Bernard Pender (Acting Chair), Becca Casey, Kermit Stanley, Jay Chace, William Benzing (Alternate),

MEMBERS ABSENT: Bill Lunt, Rudy Israel (Alternate)

STAFF PRESENT: Ethan Croce, Senior Planner

The meeting was called to order at 6:36 pm.

William Benzing was appointed as a voting member.

1. Approval of minutes from the February 5, 2013 Planning Board meetings.

The minutes were tabled until the next meeting.

Administrative Action Items

2. Wal-Mart Real Estate Business Trust – 206 US Route 1 – Request for a one-year site plan approval extension for outdoor sales and storage. Tax Sheet 320; Map-Lot U52-002. Zoned SB1 and Village Center Overlay.

3. FL Ventures, LLC – 50 Ledgewood Dr. – Request for an amendment to The Ledges subdivision to adjust the lot line between lots 1 and 3. Tax Sheet 512; Map-lot R04-068. Zoned RA and RCZO.

4. TideSmart Global, LLC – 380 US Route 1 – Request for approval of two property identification signs. Tax Sheet 83; Map-lot U62-003-001. Zoned BP

5. Paul & Janis Walsh – 227 Foreside Road - Request for Shoreland Zone approval for a permanent stairway and pier and temporary ramp and float. Tax Sheet 162; Map-lot U16-087 & U16-088. Zoned RA, LR (Shoreland), RCZO and WVOD.

Marjorie Getz and David Tourangeau of Powerhouse Road requested that the Walsh item be removed to the regular agenda.

Becca Casey moved to approve Administrative Action Items 2-4; Kermit Stanley seconded. Motion carried.5-0.

Agenda Items

5. Paul & Janis Walsh – 227 Foreside Road - Request for Shoreland Zone approval for a permanent stairway and pier and temporary ramp and float. Tax Sheet 162; Map-lot U16-087 & U16-088. Zoned RA, LR (Shoreland), RCZO and WVOD.

Ethan Croce explained that this is a shoreland zone application for a permanent pier and temporary ramp and float. The applicant has received their DEP permit for the permanent pier and is requesting approval to begin construction on all portions of the project that are covered by the DEP permit. They are still waiting for the DEP to approve the temporary portion. He suggested a condition of approval that no construction of the temporary portion will be allowed until the DEP permit comes in.

Public comment period opened:

David Tourangeau of Powerhouse Road distributed photos to the Board.

Marjorie Getz of Powerhouse Road felt this application does not fit the standards of the shoreland ordinance for visual points of interest and cited sections 7.2, 7.8 and 7.9. She said the pier is not a candidate for a special exemption under 7.9, which would limit the square footage to 1500 square feet. The proposed structure is out of scale for its surroundings and would exceed the 1500 sq. foot limit.

Mr. Tourangeau pointed out that this is longer than a football field and is extending into a little cove. He was concerned about the float since there is a fetch in the cove. Both Handy Boat and the Yacht Club have protocols for removing floats during a storm.

Ms. Getz said that 7.21.b says that the location shall not interfere with natural beach areas; most of this area is sand. There are misstatements in the applications; there are two residential lots between this property and the Yacht Club. The applicant claims that they own all the shorefront in the cove, but she and her husband have hundreds of feet of water frontage in the cove, and there are two other land owners as well. The application states that Handy Boat doesn't provide access to the public for boat launching; this is untrue. The proposed project doesn't provide any access for boat launching anyway; it is for a pier. Also, the application states that only the outer portion would be visible to any other homes. She said it will be visible from not only her home, but several others. The application claims that the seasonal components of the project will be removed annually; she said the applicant has "temporary" structures on his property that have never been removed, are clearly visible from her property and are in violation of the setback. She said she has no way to see the visual evaluation field survey checklist submitted to the DEP, but she alleged that the DEP approval was based on faulty information. With regards to the habitat considerations, the DEP reviewed a database; they did not visit the site. She said this was a nesting area for osprey, great blue heron and ducks. DEP did not identify scenic aesthetic navigation, soil erosion or lighting, which they understand will be included on the structure and is not included on the application. Light pollution is a big concern for the neighborhood. She echoed Mr. Tourangeau's comment regarding procedures for the float during storms. She contended that the DEP did not follow its own wetlands and water bodies rule which states that a project cannot be permitted if there is a practical alternative. These applicants have an alternative literally in their backyard at Handy Boat.

Jay Chace asked if they had engaged the DEP with their concerns.

Ms. Getz said that they were kept in the dark and she has not been able to contact anyone so far in the last few days. She pointed out that the Board shouldn't rely on the DEP approval since it is based on faulty information.

Becca Casey asked whether they had spoken with the applicant about their concerns.

Ms. Getz said the applicant had a narrow, 50 foot wide strip of shorefront. He approached them with a request that they sign a letter allowing a pier which would have been within their setback. They said they wouldn't sign it, but wouldn't object. They had no idea of the scope of this project until they saw the Planning Board application. This is a big project and has a lot of visual impact.

Peter Spencer, representing Paul and Janis Walsh and owner of Waterman Marine, said the structure installed in 2012 was removed in September and hasn't been in since. His business manages all their clients' systems, and they would detach the ramp from the float during any storms. The floating walkway system built a year ago is 125 feet long and is anchored; it is very well secured. He has spoken with the Harbormaster, who was satisfied that there is no safety issue with the application. He said the application to the DEP was for a 165 foot long pier with an attached 30 foot ramp and float. The proposed system will come out the same distance as the temporary walkway installed last year and is the least visually intrusive system as you can ask for; it is 40 inches off the water, and rests on the sand when it is not floating. This is the most sensible solution to get Mr. Walsh's boat to the water. They have installed many

of these floating walkways and have had no problems with them being damaged in storms; he had confidence in their construction. He didn't see anything in the ordinance that would limit a floating structure to 1500 sq. feet. The applications to DEP are also reviewed by both the Depts. of Marine Resources (DMR) and Inland Fisheries and Wildlife (IFW). DMR said there would be some shading of the salt marsh, but it would not be significant. IFW talked about wading birds, but that this would not impact that resource at all. The fixed structure is 12 feet off the sand at its end, and 4 feet off at the beginning. He testified that the photos he took did not have a zoom lens; the Yacht Club is not very far away. He said that Handy Boat is very busy; they have met with them and they are happy with the plans for the floating walkway. It will not interfere with their traffic at all. The cove at low water is only 20 feet wide; the walkway is snug against the ledge on the eastern side. He didn't agree with the argument that there is a visual intrusion here; the Tourangeaus have a lot of foliage on their lot that will obscure any view of the floating walkway during the season.

Jay Chace asked if section 7.9 applies specifically to single family dwellings and not structures, and whether the Board should be reviewing 7.8 and 7.21. Ethan Croce confirmed those statements.

Bill Benzing asked about the violation of the setback.

Mr. Spencer said that referred to the temporary structure installed last year; this system is proposed to be farther west than that system was.

Ms. Getz said the temporary structures that haven't been moved are not part of the dock system. She made the point to illustrate the habits of the lot owner.

Public comment period closed.

Jay Chace asked about any lighting proposed. Mr. Spencer said lighting is proposed; they haven't determined what it would be, but it will be low-impact, low-wattage LED lights installed under the handrail. There would be no ambient light that would bother residents.

Jay Chace asked if there would be any timer on the lights. Mr. Spencer said no, but they would be manually operated, so they wouldn't be on every night.

Becca Casey asked about the Board's authority over the lighting. Ethan Croce said section 7.8 e addresses conserving visual and actual points of access to coastal waters; lighting could be roped in under that analysis.

Bill Benzing was sympathetic to the situation, but thought it was pretty cut and dry as to the Board's involvement.

The Board discussed a condition that the lighting be reviewed by planning staff prior to a building permit being issued.

Jay Chace moved to approve the application with the conditions that lighting be reviewed by planning staff, and no work on the temporary pier shall begin until the necessary DEP permit is issued. Kermit Stanley seconded.

Motion carried 5-0.

6. David Chase – 50 Gray Road – Request for sketch plan review of a proposed self-storage facility. Tax Sheet 451; Map-lot R05-045. Zoned MUC, LR & RP (Shoreland) and Route 100 Corridor Overlay.

Ethan Croce explained that this project was before the Board two years ago for sketch review of a similar project. One question is how the Board wants to apply the design guidelines to the proposed self-storage buildings. The applicant has presented an analysis of this project to show how the visual impact of the building would be minimized due to the distance from Gray Road and the screening provided by currently

existing buildings. The applicant is retaining a portion of the current office building; their plans for this building should be clarified. Because this type of use does not fall under section 5 in the ordinance, the Board should make a finding as to how much parking is necessary to serve all the uses of the site. The current driveway that accesses the site is located within 50 feet of the intersection of Gray Road and the 50 foot right of way; staff suggested perhaps pulling the driveway back to meet the ordinance standards and to avoid stacking and blocking traffic on the abutting property. In April 2011 the Board asked for parking to be pulled to the rear and screened. The applicant should clarify the purpose of the proposed berm at the rear of the lot.

Tom Greer of Pinkham and Greer, representing the applicant, said they have met with DEP because this is a stormwater project with them. He discussed the details of the current site. The earthworks business consumes a fair portion of the site and there are numbers of gravel piles. The plan is to clean up the site with the proposed project. They have sent a letter to the Council to request a rezoning on this site. There is a piece of the parcel that is zoned Limited Residential; staff have suggested it should be zoned Limited Commercial. They also requested a change of use to allow outdoor storage of RV's and boats on the site. Overall the site is about 11 acres. Mr. Chase is working with a consultant on the design of the self storage buildings. They would have a small, 7 space parking lot in the front of the site, where people can park to visit the office. There would be a gate system beyond the office to allow entrance to renters. The front half of the existing building will be torn down and reconstructed to have office space. There would be 3 rental bays in that building for vehicles. The berm was to separate the planned outdoor boat storage from the earthworks and gravel operation that will continue to operate at the rear of the parcel. The landscaping and fencing along the top was to control access from the self storage business and insulate it from the noise and dust of the earthworks operation. The wet pond proposed at the back of the lot is designed to manage the stormwater for the entire site now and in the future. It will have an access which was located closer to the river as requested by the DEP. It will discharge below the flood elevation; there is an exemption under the rules for that. He showed plans for the renovation of the existing building. There will be windows on the sides closest to Gray Road and the right of way; the side facing the storage buildings would be blank. He showed examples of typical self storage buildings. They are looking to use conventional architecture for the units, because they think these units are a temporary use for this site. They think there is a higher and better use for this site in the future.

Stephen Mohr of Mohr and Seredin looked at this in terms of the corridor overlay and the design guidelines. They looked at how visible the site is and how visible the buildings would be to determine how the guidelines should be applied to this site. He showed where the view corridors are on the site: there are two from Gray Road and one from the interstate exit ramp. While they understand that the buildings that currently block the view might change, they felt it made sense that any buildings would be replaced by similar or larger structures. The turnpike sits 17-19 feet lower than the hill between it and the lot so there is no way to see this site from the turnpike. They looked at the proposed grading and the ridgelines. The critical portion of the site in terms of architectural treatment is the portion of the office building that is proposed to remain. They felt the best approach would be to develop vegetation to plug the gaps and limit visual access. They could bring the office building and the front parking lot into compliance with the design guidelines. He said the berm provides some midline buffering; it will also improve the visual and aesthetic quality internal to the site.

Jay Chace asked if there would be any warehouse or buildings associated with the earthmoving portion. Mr. Greer said not at this time.

Bernie Pender asked what kind of plantings they were considering that would come up quickly and block visual access.

Mr. Mohr said they would use a mixture of taller, deciduous plants, mostly native plants. Those would be planted at 16-18 feet to provide immediate impact. The evergreens are being kept at 5-7 feet because in

their experience those grab quicker, though they are suggesting 8 foot pines in a few selected areas to provide immediate cover.

Jay Chace wasn't concerned with parking beyond the fence; he felt the 7 spaces were adequate. He wondered about sliding 1-2 spaces inside the gate area for employee parking. That might limit the amount of parking they would need up front. This would allow the drive to the Libby building to be moved back a little from the intersection to Gray Road.

Mr. Greer said they lined up the access drive with the proposed entrance to the Portland North business park. Mr. Libby was concerned with his access; they have negotiated that.

Jay Chace asked the distance from Gray Road to the drive into the lot; Mr. Greer said it is proposed to be 40 feet; it is less than that now. Their concern was with lining that up with the business park drive.

Becca Casey understood the architecture of the storage buildings and appreciated the screening and the change of orientation. She had concerns with the drive and wondered about pulling it back. She didn't think they had applied the design guidelines to the entire office building, just the front of it. She would like to see more on that building. She suggested more deciduous trees for the screening of the office building; it would be good to be able to see that building as you come in to know where you are going.

Jay Chace agreed with the comments regarding architecture for the office building. They can't expect them to meet the guidelines for the storage buildings, but there could be more effort put into that office building.

Kermit Stanley agreed with those comments. He felt they had done a great job with the buffering.

Bill Benzing asked what their plans were for the site in the future, since they talked about the storage being temporary.

Mr. Greer said there are no current plans, but they are hoping that it is a more valuable site long term. This is a good use for the site for the next 10 years or so.

Bill Benzing suggested that, since they have the back entrance for the outdoor storage, they could put the main entrance at the rear. This would allow the front end to be buffered more.

Mr. Greer said that would be a struggle; the self-storage consultant said they needed some visibility for the business. The entrance at the rear is controlled by an attendant, and is not controlled by a keypad. They want everyone to go in through the front entrance. All activity would be monitored by security.

Becca Casey asked about the fencing. Mr. Greer said it is a 6 foot chain-link fence.

Becca Casey wanted that fencing to be a little nicer, perhaps painted aluminum vertical fencing as opposed to chain-link. She didn't need any architectural treatment on the first storage building, but she would apply the full design guidelines to the front office building and wanted a nicer fence.

Bernie Pender agreed; they should spend some more time on the front building and the fence. He asked how many vehicles they plan on storing in the back portion; Mr. Greer didn't know.

Bernie Pender pointed out that they should have something planned in terms of leakage from the vehicles stored. He asked about lighting in terms of the 24 hours access to the storage buildings.

Mr. Greer said they would use small down-lit fixtures directly on the storage buildings that would be tied to the keypad on the gate. Keying in your access number would trigger the lights on your building; there would be some lighting for security purposes as well.

Bernie Pender said they would need information on the security lighting.

Public comment period opened; no public comment.

7. David & Anne Chase – Arrowhead drive – Request for a private way amendment to add two lots. Tax Sheet 490; Map-lot R07-074-001. Zoned Farm & Forest and RCZO.

Ethan Croce explained that this drive was approved in 1993 and amended in 2000 to add a lot. The applicant is now proposing to add two lots and extend the drive 500 feet, creating 2 country estate lots. The submission was missing an erosion and sedimentation control plan, information on septic test pits, a wetland delineation referencing town wetland standards and a drainage grading plan for the extension of Arrowhead drive. Resource Conservation Zoning Overlay (RCZO) standards are triggered by this development; while no open space is required for a country estate lot, the house lots themselves are subject to the 4 step design process. It wasn't clear from the application how the building envelopes took that design process into account since they seem to consume the majority of each lot. Because the Board's waiver authority on road standards is limited to the subdivision ordinance, they have no waiver authority on the road standards for this project; they could allow the road to neck down as it serves fewer lots. The dead end road length limitation does not apply to private ways in the RCZO that access only country estates; since this way accesses lots other than just county estates it is slightly ambiguous as to whether that exemption qualifies in this case. One lot does not have the required 120 feet of street frontage on the private way. The applicant should verify eligibility with the homestead exemption under state statute. The Board should chime in on whether a landscape architect is required for this application. The applicant should verify whether site analysis sheet represents a complete inventory of all the primary and secondary conservation areas.

Bernie Pender pointed out that there are several key submittal items that are missing from the application; the Board's policy in the past has been to not hear incomplete applications. His implication was to table.

Tom Greer of Pinkham and Greer, representing the applicant, stated that the erosion controls, while not labeled, are shown on the plans. The test pits are not a submittal requirement; they have shown on the plans that they have suitable soils on the sites. They have done and submitted the test pits today.

Jay Chace asked about the street design and grading plans.

Mr. Greer said the grading is shown on the plans. They were under the assumption that the Board can waive the length and width of the street; they have some idea on how they can meet the standards. Mr. Chase has owned this property for more than 5 years and lives here as his primary residence; the whole parcel is on the market and they are trying to add value to the remaining open space on the lot. They don't necessarily plan to build on these two lots. They hope to find a buyer that will want to keep it open. In order for Mr. Chase to qualify for the homestead exemption the lots need to be approved before he moves. The ordinance says a county estate lot on an approved private way only needs 25 feet of frontage.

Jay Chace thought there were a number of items they can talk through.

Mr. Greer said they do not anticipate an approval tonight; they want to talk out some of the issues with the Board before coming back with a revised application.

Bernie Pender asked if the road has been widened to the 16 feet width as required by the amendment. Mr. Greer said that has been done.

Mr. Greer said the site analysis requires a number of graphics. He showed the details of the site and discussed the topography, location of the wetlands, and the gas line. The lot is heavily forested. The site is primarily sandy, loamy soils that drain well, with some wetland soils around the wetland areas. He showed that, since it is all forested, there are few viewscapes on the lot. Under the density calculations, they could put 29 homes on the site. They feel that country estates lots are the opposite of conservation lots; they are intended for large estates, with the ability for a barn, horses, and pasture and estate lands. The setbacks and buffers create the open space. The building envelopes are large, but one consists of 2.5 acres of the full 8 acre lot; the rest of it is setbacks and buffers. Since they now know the Board cannot waive the road width, they would revise the road way to show the full 16 feet width; they were originally

going to maintain the existing driveway and only construct the turnaround. He discussed the proposed locations for the driveways and where the road would be improved to 16 feet wide. They would restrict the driveway for lot 1 to be located on one side of the pond. He felt the frontage for the one lot met the standard; it has 50 feet of frontage. For an approved private drive for country estates, there is a frontage requirement of 25 feet. They feel they met that.

Bernie Pender said they would expect to see the grading and changes for the road in the next submission. He asked if there were any special considerations for crossing the gas line.

Mr. Greer said not to his knowledge. The street will have to be upgraded to minor street status in that area, and they would be in touch with the utility.

Becca Casey said the driveway restriction for lot 1 seems to be crossing the wetlands.

Mr. Greer said there is a 4-5 foot wide outlet for the wetland; they would install a culvert. They are trying to minimize the disruption to the wetland caused by the widening of the road.

Becca Casey discussed the requirement for a landscape architect. While she appreciated the input of a landscape architect, she was inclined to waive that requirement since these are large estate lots.

Mr. Greer said the things required for primary conservation areas either come off a map or from the survey. Country estate lots don't require open space, and since secondary conservation areas contribute to locating open space, he didn't think it applied in this case.

Ethan Croce pointed out that the building site should be tentatively located relative to the primary and secondary conservation areas. The priority areas guide the location of the building envelope. The requirement to look at those other areas is there.

Bernie Pender asked about the 25 foot road frontage questions.

Ethan Croce said there are three ways to design country estates: public streets, private ways or private access drives. Since there was no reference in the application to private drives, staff assumed the applicant was using a private way, which requires 100 feet of frontage.

Bill Benzing asked where the proposed building would be on lot 1. Mr. Greer indicated the location on the plans.

Bernie Pender asked if there would be changes to the road maintenance agreement due to changes in the road. Mr. Greer said that they felt that the agreement was sufficient, but they would have an attorney look at it.

Public comment period opened.

Bill Leets of Indian Way indicated the location of his property relative to the development. He asked about the requirements for the building envelope. It is difficult to assess the impact to his property if basically the whole property is shown as the building envelope. He asked for some clarification on that. He said that town water stops at Brookside; this whole area is served by wells. He has a small fire pond on the edge of his property. He asked if there was an evaluation of the ability of the fire pond to cover both the existing house and any new construction. He was slightly concerned with the increase in use of Arrowhead Drive and increased speeds and traffic.

Mr. Greer said there is a 50 foot no-cut buffer between Mr. Leets's lot and the building envelope.

Bernie Pender asked about building placement on the lots. Mr. Greer agreed to add that to the plans for the next submission.

Becca Casey moved to table the item; Jay Chace seconded. Motion carried 5-0.

8. Howard & Louise Reiche – Pleasant Hill Rd – Request for approval of a private way to serve two lots. Tax Sheet 390; Map-lot U33-002-A; Zoned RA, RP (Shoreland) and RCZO.

Ethan Croce spoke about the RCZO exempt lot provision eligibility; in order to divide lots off a private way in the zone one must conform to the provisions of the ordinance, unless the lot is in the same configuration it has been in since April 1, 2005. The owners of this parcel conveyed out a portion of the lot to the abutters in 2007; they have since added that back to the lot to bring it back into its former configuration to allow them to use the exempt lot provision. The applicant is prepared to show several conceptual driveway locations to show conformance with section 5.38.5 regarding a driveway that will cut through wetland buffer and setback, which is the case on lot 1. If the project were ever to trigger subdivision review a paper street would be required. Since a connection with the abutting Cleaves Farm subdivision is possible, the applicant might want to locate any building on lot 2 so as to not block that access. The Town Engineer has indicated that he is comfortable with the applicant's revisions.

Bernie Pender said in 2007 the applicant conveyed property, which was recorded in the registry. They now want to re-convey that property back as of today. He felt that they cannot revert back in time with regards to the property's legal description and so cannot meet the exempt lot provision. The legal description will have changed.

Ethan Croce said staff's interpretation is that, since the lot will be in the exact same configuration as it was in 2005, it would meet the exemption. The intent of this portion of the ordinance was to prevent people from adding on land so that they can get above the minimum and get two conventional lots without triggering the overlay zone. In this case, the end result is the same as if they had never conveyed out the land.

Becca Casey understood Bernie Pender's point but didn't see that there is an issue with it; they are getting back the piece of property they had conveyed out. She was comfortable with staff's interpretation. Jay Chace agreed.

Bill Benzing thought there was a difference between the ordinance saying the lot had to stay intact versus that it had to be in the same configuration.

Kermit Stanley was comfortable with staff interpretation.

Steve Bradstreet of Ransom Consulting, representing the applicant, described the location of the project. The entrance off Pleasant Hill Road is a 50 foot wide right of way which enters and veers left, ending in a hammerhead. The road comes down at an 8% grade and meets the standards for a local road coming off Pleasant Hill. It is a ditched road, 16 feet wide with stone check dams all the way through. They are showing two conceptual driveway entrances to demonstrate that they can install the required stormwater structures. There is a level lip spreader off the hammerhead on lot 2; there is a 1% grade for 50 feet leading to the spillway. All the grading is contained within the right of way. Anything down slope of the construction has slit fence or erosion control berm. He showed the driveways where they are located because the ordinance states that a driveway cannot come off the end of a hammerhead on a public right of way. The driveway for lot 1 does encroach into the setback for the high-value wetland; it has 300 feet of impact. The driveway for lot 2 has no wetland impacts. Lot 1 has 125 feet of frontage on the right of way. He agreed that the plan he submitted needs the additional 5 feet shown per Ethan Croce's comments.

Becca Casey asked about the paper street.

Mr. Bradstreet said the paper street was only required if it became public. Interpolating where that proposed building would be, as long as it didn't conflict with that connection, was all that was required. It wasn't required to be shown on the plans.

Becca Casey asked that it be shown on the plans, just for the future. Mr. Bradstreet agreed; they will work with staff on the best location for that.

Public comment period opened.

David Murray of Allen Ave Extension has lived in his home a long time. The Reiches have been great neighbors and have designed this in such a way to minimize the impact to the abutters. He would appreciate it if they could minimize the visual disruption of the area. He asked for flexibility in terms of location of driveways; while there are wetlands, there aren't migratory birds or anything in there.

Mr. Bradstreet said the hammerhead is per town ordinance and standards. He didn't know how much flexibility there is, since it is based on an emergency vehicle getting in and turning around. Making it less obtrusive might not meet the safety standards of the Town.

Becca Casey appreciated having the driveway off the hammerhead; while it might create difficulties for making this a public way, it would minimize additional construction.

Ethan Croce read the proposed conditions into the record.

The applicant indicated agreement with the proposed conditions.

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

9. Election of Planning Board Officers

Jay Chace moved to elect Bill Lunt as Chair and Bernie Pender as Vice-Chair. Bill Benzing seconded. Motion carried 5-0.

Meeting adjourned at 9:24 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary