

**TOWN OF FALMOUTH  
BOARD OF ZONING APPEALS  
TUESDAY, July 24, 2007**

These minutes are not verbatim

**MEMBERS PRESENT:** Rich Bayer, Justin Edwards, Fred Jay Meyer, Richard Mulhern.

**MEMBERS ABSENT:** Kevin McCarthy, Ann Marie Pender.

Rich Bayer is acting Chairman.

Meeting opens: 6:30p.m.

Added to agenda for reconsideration: L&M Builders.

Minutes from June not available.

May minutes several members not present, deferred to next meeting.

- 1) **Daniel & Nancy Thurber-** Are requesting Conditional Use approval for dormer and sunroom at 75 Applegate Lane Parcel # U59-010-031 zoned "RA".

Mr. Bayer: recuses himself.

Acting Chair is Mr. Mulhern.

Ms. Thurber: presents plans for dormer and sunroom 12x12.

Mr. Mulhern: is there anyone from the public who wish to comment?

Ms. Joyce Hannah: president of Association, voted unanimously to approve the projects

Public comment closed.

Mr. Meyer: motions to approve the application.

Mr. Edwards: seconds the motion.

All in favor? Vote is unanimous.

- 2) **Michael Lamare** –Is requesting Conditional Use approval for dormers at 238 Middle Rd, Parcel # U23-003, zoned "RB".

Mr. Lamare: presents plans for dormers.

Mr. Bayer: would any members from the public like to comment? Public comment closed.

Mr. Mulhern: motions to approve the application.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.

- 3) **Nancy Herter & Lendall Smith-** Are requesting Conditional Use approval to build an addition at 10 Valley Ave, Parcel # U60-002 zoned "RA".

Mr. Berube: presents plans for the addition.

Mr. Bayer: would any members from the public like to comment? Public comment closed.

Mr. Edwards: proposed new addition is just the dormer?

Mr. Berube: correct.

Mr. Meyer: it's 50 ft from property line?

Mr. Berube: correct.

Mr. McCarthy: would someone like to make a motion?

Mr. Mulhern: motions to approve the application.

Mr. Edwards: seconds the motion.

All in favor? Vote is unanimous.

**4) Liz & Alex Hutcheon** - Are requesting Conditional Use approval to build an addition at 233 Middle Rd, Parcel # U25-032-A, zoned "RB".

Merry Meeting Builders- presents plans.

Mr. Bayer: would any members of the public like to comment? Public comment closed.

Mr. Bayer: Is this a 6.2 A?

Mr. Farris: yes.

Mr. Bayer: would someone like to make a motion?

Mr. Mulhern: motions to approve the application.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.

**5) Jon Taplin & Lynda Dupuis** – Are requesting Conditional Use approval to tear down and rebuild a house at 52 Winn Rd, Parcel # U41-019 zoned "RA".

Mr. Taplin and Linda Dupuis: present plans to rebuild house.

Mr. Bayer: Would any members from the public like to comment? Public comment closed.

Mr. Bayer: this is a nonconforming lot?

Mr. Farris: yes, it is under section 6.9.

Mr. Bayer: would someone like to make a motion?

Mr. Mulhern: make a motion to approve the application.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.

**6) David Means**- Is requesting Conditional Use approval to expand a dwelling and rebuild a garage at 6 Hammond Rd, Parcel # U02-009, zoned "RA".

Mr. Means: represents home owner; present plans.

Mr. Bayer: this is a 2 step application under section 6.5 and 8.3.

Mr. Bayer: would any members from the public like to comment? Public comment closed.

Mr. Bayer: we will discuss the house first. The house itself is nonconforming?

Mr. Farris: yes, the structure.

Mr. Bayer: the 18 ft is the back?

Mr. Means: yes.

Mr. Bayer: we will vote on the expansion on the house first.

Mr. Mulhern: motions to approve the application for Mr. Silverson represented by David Means.

Mr. Edwards: seconds the motion.

All in favor? Vote is unanimous.

Mr. Bayer: the second part of application.

Mr. Bayer: would any members from the public like to comment? Public comment closed.

Mr. Meyer: the old garage is 18 x 20 and the new is 24 x 26.

Mr. Means: no, it will be the same size.

Mr. Meyer: will it be moved?

Mr. Means: no, the same location.

Mr. Means: reviews plan with Mr. Bayer.

Mr. Bayer: it is the same size as it is?

Mr. Mean: yes.

Mr. Meyer: would it be difficult to move it forward?

Mr. Means: no.

Mr. Bayer: 6.9 deals with dwellings, not an out building like this.

Mr. Farris: our conversation was to enlarge the garage and meet the setbacks. The only option was to rebuild it.

Mr. Bayer: does this fall under 6.10?

Mr. Farris: it could if wasn't damaged, it is here as a replacement for a damaged structure, 6.5 seemed to be the practical section to hear this.

Mr. Meyer: we can approve it with conditions?

Mr. Bayer: yes, approve with conditions. Does anyone want to make a motion to rebuild on same footprint?

Mr. Mulhern: motions to approve the application for property owned by Peter Silverson to rebuild the garage on the same footprint.

Mr. Meyer: seconds the motion.

Mr. Bayer: we have a motion and second.

All in favor? Vote is unanimous.

**7) Stephen & Nancy Hall-** Are requesting Conditional Use approval to tear down & rebuild a house at 412 Pride Farm Rd, Parcel # HL6-028, zoned "RBM".

Mr. Stephen Hall: presents plans for tear down and rebuild.

Mr. Bayer: are there any members from the public who wish to comment? Public comment closed.

Mr. Meyer: the closest part of the extension, is that a deck?

Mr. Hall: yes.

Mr. Bayer: the revised plan 2007, added 10 ft set back from property line to deck. Is that the application before us?

Mr. Hall: yes.

Mr. Bayer: the dotted lines are to be built?

Mr. Hall: yes.

Mr. Hall: reviews plans with Mr. Bayer.

Mr. Bayer: Are the calculations yours?

Mr. Hall: the builder's calculations.

Mr. Bayer: the revised plan is what we are looking at?

Mr. Hall: yes, the proposed deck is larger.

Mr. Bayer: do we need a lot coverage calculation?

Mr. Farris: it's 9500 sq ft lot.

Mr. Bayer: would anyone like to make a motion?

Mr. Mulhern: motions to approve the application.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.

**8) Carol Ward & Chuck DeSieves**-Are requesting Conditional Use approval to rebuild a portion of a house at 35 Old Power House Rd, Parcel # U16-085, zoned "RA".

Mr. Bayer: recuse him and Mr. Mulhern will be acting chairperson.

Mr. Rob Crawford: presents the plans to rebuild. Submits pictures of views, and demonstrate view impacts from the photo's.

Mr. John Whipple: reviews the plans for the application.

The roofs are not increased in height. The application meets all the requirements for conditional use.

Mr. Mulhern: would any members from the public like to comment? Public comment closed.

Mr. Meyer: plan 2, the green is the area that is within 20 ft of the building or within 10 ft of the line? In that area there is no change to the footprint.

Mr. Whipple: no change to the footprint in any area only the volume on the ocean area. It is decreased everywhere else.

Mr. Edward: you're adding deck on either side?

Mr. Whipple: yes.

Mr. Mulhern: Mr. Farris, any comments?

Mr. Farris: no.

Mr. Meyer: you are helpful to neighbors in keeping your roof down.

Mr. Mulhern: would someone like to make a motion?

Mr. Meyers: motions to approve the application.

Mr. Edwards: seconds the motion.

All in favor? Vote is unanimous.

**9) Jeffrey Foltmer-** Is requesting Conditional Use approval to tear down & rebuild a dwelling and garage at 90 Foreside Rd, Parcel # U11-014 zoned "RA".

Withdrawn.

**10) Richard M. Betters-**Is requesting Conditional Use approval for an Accessory Dwelling at 11 Pride Farm Rd, Parcel # R09-043-B, zoned "FF".

Mr. Betters: presents plans for accessory apartment.

Mr. Bayer: 288 sq ft is for the breezeway?

Mr. Betters: 1009 sq ft for the accessory apartment.

Mr. Bayer: what is the square footage of your house?

Mr. Betters: the sq. ft. of house is 2295 finished square feet first & second floor.

Mr. Bayer: is there any members from the public who wish to comment? Public comment closed.

Mr. Edwards: we count the garage in this space?

Mr. Farris: no, not unfinished space.

Mr. Edwards: it is 2095 plus 288.

Mr. Betters: yes.

Mr. Meyer: Mr. Farris, is this the way you do the calculations; you include the apartment in the overall size of the dwelling?

Mr. Farris no, you would subtract the apartment from the combine total of the area of the proposed apartment would be in. It would be subtracted from the total calculation.

Mr. Meyer: the house is 2292 and 288 total, it would be at 35% 903 sq. ft

Mr. Better: could I get an additional permit to add space to the 3<sup>rd</sup> floor?

Mr. Bayer: the apartment above the garage would be 1009?

Mr. Betters: correct.

Mr. Bayer: interior wall to interior wall?

Mr. Farris: yes.

Mr. Betters: I would propose a permit to complete some square footage in the attic.

Mr. Bayer: this is the 3<sup>rd</sup> floor space in the existing home?

Mr. Betters: yes.

Mr. Meyer: we could make a motion to approve it with conditions to finish the interior on the 3<sup>rd</sup> floor to bring him up to the 35% expansion.

Mr. Mulhern: motions to approve the application with a condition that the finish area of the dwelling itself be increased so the proposed accessory apartment be no greater than the sq. ft. of 35% of the finished area.

Mr. Bayer: also if he went into the 3000 sq. ft. which would allow 30% or 1050 sq. ft. which ever is greater.

Mr. Mulhern: I'll add that amendment as well.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.

**11) Duncan MacDougall-** Is requesting a Variance/Conditional Use approval for a boat house/dwelling at 30 Kelly Rd. Parcel # U01-215-D, zoned "RA".

Mr. MacDougall: presents plans for approval to lift building 5ft.

Lift and repair or move it back because the foundation is crumbling.

Mr. Bayer: this application is to raise it 5ft and maintain it at a 5ft higher level than it is now?

Mr. MacDougall: the spring high tide, you have to be 12" above what that would be to be able to use the first floor.

Mr. Bayer: the application states also to finish the first floor and add dormers.

Mr. MacDougall: not at this time, now it is to only raise it and finish the first floor.

Mr. Bayer: would any members of the public like to comment? Public comment closed.

Mr. Bayer: we have a letter here from an abutter, Chuck MacCatherine dated July 24, 2007 is opposed to moving the structure.

Mr. MacDougall: this is because of their view.

Mr. Bayer: Mr. Farris, can you provide information?

Mr. Farris: there is a flood plan certificate for the flood evaluation for the building. In order to get the first floor into a position where it can be converted into living space it needs to be 12" above flood level. We determined it to be an elevation change of 5ft. the shoreland zoning rules state that if you are going to place a new foundation under the building. That it must be moved back to the greatest practical extent. The rules allow you to elevate a building when it's not over the water 3ft. This building sets over the water. DEP, Duncan MacDougall, and I have met on this site numerous times and determined that the building would need to be moved back.

Mr. Bayer: what does moving it back accomplish?

Mr. Farris: he gets it off the water. There is an email in your packet dated July 11, 2007 from Michael Morris. Reads email.

Mr. Edwards: what we are approving here is moving the house back?

Mr. Farris: and elevating it so that the sill is 5ft above the flood plan elevation.

Mr. Edwards: all parties determined this?

Mr. Farris: yes.

Mr. Edwards: is this still a variance?

Mr. Farris: conditional use; 6.11.

Mr. Mulhern: you want to leave it where it is?

Mr. MacDougall: yes, it is a historical boat house and I would like to leave it where it is.

Mr. Mulhern: do you want to leave it where it is and we are making you move it?

Mr. MacDougall: yes.

Mr. Mulhern: Mr. Farris, do we have the authority to leave it where it is?

Mr. Farris: he can leave it and repair it but not elevate it.

Mr. Bayer: is your application for to leave it where it is or is it to move it to that spot on the map we've all been looking at?

Mr. MacDougall: There was confusion on the first application. That was the direction I was directed to go. Then it was found it would have to be moved. The original application was to leave it where it was. This is what I thought the right move was. It was tabled. Then more meetings determined it would need to be moved. The building needs repair so whatever I need to do; obviously I would love to leave it where it is. It would be cheaper to leave it here, being a boat house. I need approval so the thing doesn't fall into the water.

Mr. Mulhern: what is DEP's role here? Do they vote on it as well?

Mr. Farris: no, they just have to review the application. If they have concerns or objections they would have put it in writing by now.

Mr. Mulhern: is it our call if it be moved?

Mr. Farris: if granted the foundation be raised where it is, DEP would ask for reconsideration.

Mr. Mulhern: they are an interested party?

Mr. Bayer: what are you asking us to vote on, leave it where it is or move it?

Contractor: the longer it waits the more it crumbles, whatever you think is best. We need to do something.

Mr. Edwards: if we ok it to raise it up where it is, the DEP will bounce it back.

Mr. MacDougall: in some conversations with Mike from DEP, he said at times to move to the greatest practical extent is to leave it where it is.

Mr. Farris: Mr. Morris from DEP felt option 1 was to elevate the building and repair the foundation. Option 2 was to elevate it 3ft and crib the building up under it, replace underneath but not replace the foundation, in order for him to use the first floor he has to get it up 5ft. and relocate the building; There are 4 parties involved.

Mr. Bayer: are you requesting it stay there?

Mr. MacDougall: no, not at the current level it is at.

Mr. Meyer: if you raised it 3 ft would it be ok?

Mr. MacDougall: leave it where it is and raise it 5 ft.

Mr. Edwards: I think we go with what Mr. Farris says, and move it.

Mr. Bayer: is that a motion?

Mr. Edwards: yes, under 6.9c.

Mr. Bayer: is there a second?

Mr. Mulhern: seconds the motion.

Mr. Meyer: too bad you can't leave it in place, but it sounds like you'd be back here.

Mr. Bayer: it sounds like a reasonable solution.

All in favor? Vote is unanimous, and for clarification it is for moving the building as in the diagram and raising it 5ft.

**12) Lee Harthone Sr.**-Is requesting Conditional Use approval for an Accessory Dwelling at 6 Hideaway Ln, Parcel # HL5-003 zoned "FF".

Withdrawn.

**13) L&M Builders.**

L&M Builders: reconsideration on the decision of the Board.

Mr. Bayer: there are 2 letters from L&M builders. We do not have the minutes to review to determine reconsidering the application.

Mr. Mulhern: I would be prepared to look at it next month.

Mr. Meyer: I do recall it; it's a commercial building under 6.2 b.

I would not change my opinion on it, just to reconsider it.

Mr. Mulhern: I didn't say I would change my mind.

Mr. Mulhern: motions to grant the request this application to be on the August agenda.

Mr. Meyer: seconds the motion.

All in favor? Vote is unanimous.