

**TOWN OF FALMOUTH
BOARD OF ZONING APPEALS
TUESDAY, JULY 22, 2008**

These minutes are not verbatim

MEMBERS PRESENT: Rich Bayer (Acting Chair), Jim Thibodeau, Fred Jay Meyer, Dennis Keeler, Willie Audet, Stan Given

MEMBERS ABSENT: Kevin McCarthy

The meeting opened at 6:31 pm.

Minutes:

June 24, 2008 – dk moved to approve with amendments, fm seconded. Motion passed 3-0 (audet, bayer, given abstained)

Completeness of applications:

Af says all applications are complete.

Agenda Items:

1. **William & Kathryn Whitmore** – Are requesting Conditional Use approval under Section 6.2a for an addition at 3 Hammond Rd. Parcel #U02-023, zoned RA.

David Means, builder, represented for the applicants.

Public comment period opened; no public comment.

Dk – taking an existing uncovered walkway, and raising the roof a little on the structure next to it to cover

Dm – the entryway is covered; bringint the entryway out to the front and bringing a roof over it

Dk – no clocer to the road

Dm – no.

Dk – nonconforming lot

Af – nonconforming due to size and lot width

Mr. Meyer recused himself due to his friendship with the Whitmores.

Wa – Whitmore's signed a letter allowing Dm to represent them?

Af – whitmores signed the application.

Dm – had mrs. Whitmroe fill out and sign some papers included with the application he handed in.

Wa – that should be verified that he has the right to be here.

Dk – moved to approve the application as reflected in the application.

Sg – seconded.

Board added a condition that something proving Mr. means rti be added to the file.

Dk – dm should get something in to the codes office for the file.
Dm – have to apply for the building permit

Motion carries 5-0.

2. **Ben & Trish King** - Are requesting Conditional Use approval under Section 6.2a for dormers at 22 Harding Ave. parcel # U04-063, zoned RA.

Mr. Bayer recused himself; the Kings are his next door neighbors.
Mr. Meyer served as Acting chair in his place.

Mr. King, applicant, presented his application.

Public comment period opened; no public comment.

Sg – good application.

Jt – reason it is here?

Af – nonconforming due to area and lot width; old subdivision.

Jt – percentage of lots in that neighborhood like that

Af – probably 98.9%; maybe one or two that are conforming in that neighborhood.

Dk – commended the applicant on the answers to the questions, and the application. All doing is popping out the two dormers, roof height not changing?

Bk – that's correct

Dk – not extending beyond the four walls of the house

Bk – that's correct.

Fm – house is 21.5 feet from the road, Harding Ave, it is within the setback. Why under 6.2 a, should it be 6.2b?

Af – yes, it should be 6.2b.

Jt – moved to approve the application under 6.2b.

Wa – seconded.

Motion carries 5-0.

3. **James Hazard** – Is requesting Conditional Use under Section 6.2c for a dormer at 81 Applegate Ln. Parcel # U59-010-028, zoned RA.

Mr. Given served as a voting member for this application.

James Hazard, applicant, presented his application. He wants to change an existing half-bath to a ¾ bath, and the current ceiling height will not allow that. Dormer is the length of the bath only.

Public comment period opened; no public comment.

Dk – site plan, which unit and which part of the unit is being altered.

Jh – southwest back of the unit; unit # u59-010-028. It is facing the back of the unit, and is consistent with the other units in that area. No other unit can see the back of his unit.

Wa – tax card lists jim Wilson as owner

Jh – bought it from Mr. Wilson in May. Not the resident, just the owner. Not a contractor.

Dk – moved to approve the application.
Fm – seconded.

Motion carries 5-0.

4. **Peter & Michelle Davis** - Are requesting Conditional Use approval under Section 5.22.1 for an Accessory Dwelling at 22 Stapleford Dr. Parcel #U69-044, zoned RAm.

Mr. Audet served as a voting member for this item.

Randy Ingerson, contractor, presented the application.

Public comment period opened:

Sierra, 8 Payeur Circle, asked about the location of the proposed addition. Got a copy of the layout from the town. The distance from the property line to the proposed addition says 125 feet, but he doesn't think it is that far.

Rb – the board has a copy of the diagram. The lower right hand diagram on the paper is the picture that concerns him.

Mr s – described where his house is in relation to the applicant's home. He is not a direct abutter. Commented that the Davis' are good neighbors. Concerned about the addition of a third structure to the property. This proposed structure would be very close to the property line, and would add a significant amount of sq footage to the property. Concerned about the number of vehicles that would be on the property – this garage would be a three-car garage. Adding vehicles adds traffic, noise and lights. How did they select the location of the proposed addition. Also proposing adding a concrete pad for an RV; issue of conflict with the Homeowner's Association maybe? Pad could be visible from the street and by abutting neighbors. In reading 5.22.1, the intent is to add diversity to the neighborhood – how does this achieve that?

Robin Ratcliffe, directly across the street, 20 Stonecrest Dr. on the corner of Stonecrest and Stapleford, U69-026, concerned about the placement of the addition, the RV, and the number of cars. Been told by Mrs. Davis that the RV will only be there in the summer, and will be blocked by landscaping. Can look up the driveway from the road and see the RV. Would like to hear a little more about the use; Mr. Davis collects cars, but she wonders if it will be a rental unit. How many people will be living there, is that legal in the neighborhood. This would be the only property in the neighborhood with three large buildings on the property. Concerned with the size of the structure, the location of it, and the location of the RV.

Rb – office confirmed the 25 feet from the property line.

Af – distance is 25 feet from front, 20 feet from side. Aerial photos, even though the tools on the website allow you to gauge the distances, are not accurate, the 25 feet is not a concern at this point.

Rb – the use of the pad by the RV, that is not before the board at this time.

Af – that is allowed by the ordinance, can actually use the RV as an accessory dwelling periodically through the year for visiting guests.

Dk – 5.26?

Af – yes.

Dk – has to be located within a garage, or not closer than the house, or outside the front setback. *Copy 5.26 here.*

rb – the pad is not before us. Can't approve or disapprove the pad.

Rb – the consistency of what is before the board with 5.22.1

Af – the application last submitted did not meet the ordinance, the dwelling unit covered the entire footprint of the garage. They have submitted an entirely new plan, which utilizes about 80% of the footprint.

Rb – three structures on the property. Legal?

Af – yes. As long as lot coverage doesn't exceed 20%, as allowed by ordinance. Lot coverage here is only 4%, so well within the limits, since it's such a large lot. Even though the proposed pad is shown on the plan, the plan was submitted with a building permit application, and the pad is not before the Board, the accessory dwelling unit is.

Rb – does the pad have to meet setbacks.

Af – yes, because it is concrete.

Peter Davis, applicant, regarding the RV, it is only used in the summertime, intention is to store it in Bar Harbor. During the summer the foliage comes in, there is a 300 foot driveway, and it is difficult to see it. Not going to be there when the foliage isn't there. Pad is only there so it doesn't sink when it rains. Regarding the garage – the garage there is inadequate for the car storage. No traffic issues, since he is the only one who drives the cars. The apartment above was an afterthought, as he became aware that he would have one of his parents living with them in the next few years. It will not be a rental; it is intended to provide independence for the parents.

Dk – what is the second building in the back.

Pd – originally a workshop for the previous owner, now a kennel some of their dogs. They serve as rescue for their breed.

Dk – no one sleeping in there.

Pd – no, just dogs.

Dk – if this were just a garage, without the accessory dwelling, would they be here?

Af – no, it is simply for the accessory dwelling. Not the structure. It is not named in-law in the ordinance to make enforcement easier.

Sg – setback requirements – easement?

Af – setbacks are measured from the property lines.

Sg – septic system.

Af – sewer out there?

Pd – no, just had the whole thing redone last year to meet the requirements.

Sg – was sized appropriately

Pd – yes, sized for seven bedrooms.

Af – checked the record and confirmed that the septic was adequate for the .

Pd – indicated the location of the septic on the plans.

Sg – about the sq footage, max allowed is 850 sq footage, plan shows 838, what is excluded?

Af – the stairwell. 120 sq feet or so excluded for the stairwell.

Jt – 28x33.6 footprint of the dwelling?

Af – 838 sq feet net dwelling unit.

Jt – existing dwelling is 3300 sq feet, accessory apt cannot exceed 30%

Af – that's accessory dwelling; this is an accessory cottage, and is different.

Jt – in this zone, is this use accessory dwelling/cottage listed?

Af – yes.

dk and fm commented that the board has no jurisdiction over issues of

fm – design looks similar to the existing house. What materials are they using?

Builder – vinyl siding for maintenance, but will be similar to the house.

Pd – can be clapboard if it has to be;

Wa – any requirements in the covenants?

Pd – not to his knowledge

Wa – how many dogs

Pd – seventeen

Wa – kennel licenses.

Pd – have two to cover the number of dogs?

Wa – anything stored back there.

Pd – no.

Wa - currently have two car garage, expanding to five.

Pd – yes.

Wa – ordinance was changed to allow detached accessory dwellings. Used to have to be attached.

Pd – can't expand attached to the house due to the size of the septic.

Rb – indicated that this is intended for an in-law apartment, but ordinance allows for diversity of housing, and does not determine who lives there.

Fm – moved to approve the application.

Wa – seconded.

Jt – concerned about a lack of material on the proposed plans, these are not really construction documents. Requirement of dwelling be consistent with character of neighborhood. Would like to see a condition that the applicant submit something to the code enforcement officer proving that this structure is compatible with the neighborhood. Happy to leave it to the CEO's discretion to determine compatibility.

Dk – read it to be compatible to design, scale and bulk.

Jt – felt that materials is a design feature.

Rb – 5.22.3 has a requirement – shall approximate the materials

Builder submitted a color rendering of the front elevation, which was included with the packet.

Wa- what is the material of the existing building

Pd – cedar clapboards, so is the kennel.

Motion withdrawn.

Fm – moved to approve the application, with the condition that the exterior siding materials and roofing materials be consistent with the materials used in the existing structure to the satisfaction of the CEO.

Wa – seconded.

Dk – asked about the calculations of the floor area, noted as gross. Section 2.70 says the floor area should not exceed 40%.

Af – in the shoreland zone area, floor area shall include vertical area.

Dk – shoreland only.

Af – yes. Traditionally we exclude stairways.

Mrs. Ratcliffe said that she disagreed that you can't see the RV in the summer; it can be seen. She would like see evergreens planted.

Rb – we will not address the concrete pad at this meeting. She can talk with the applicant and the CEO after the meeting.

Mrs ratcliffe sadi that there is not an active homewoners association. The new owners all receive the covenants and restrictions, no some of these things are not allowe by the covenants, but the covenants expired five years after the signing of the document, and so are not currently enforceable.

Dk – that is why the board does not get into those.

Motion passed 5-0.

5. **Rebecca & Stephanie Rand** – Are requesting a setback Variance for an existing swimming pool at 3 Pine Grove Way. Parcel # U07-004-D, zoned RA.

This application was withdrawn by the applicant prior to the meeting.

6. **Lincoln & Priscilla Hayes** - Are requesting Conditional Use under Sections 8.3 & 6.9 to tear down and rebuild a single family dwelling at 12 Chestnut St. Parcel # U17-007-A, zoned RA.

Mr. Given was designated a voting member for this application.

Lincoln Hayes, owner, presented his application. Current home is old, extends beyond the property line. Would like to tear it down and build a new home.

Public comment period opened:

Tom O'Donnell, 17 ameriscoggin rd., an abutter, likes the plans. The current home need s a lot of attention, probably with a bulldozer. Original plan was quite a bit larger, and the applicant scaled it down to fit the neighborhood. U17-007.

Lh – was going to go up to 35 feet high, but in consideration of the neighbors, scaled it down.

David Clark, ???, had a question about he sewer easement.

Lh – town mgr in a council meeting in April authorized a lands swap. The current easement comes in and hangs to the right, about 10 year age they ptu in a new sewer, so it now is within 20 feet of the property line on the Portland side. The council gave us permission to do a land swap between these two lots, so as long as I rewrite the land swap so the sewer easement will now be 20 feet on Dave Clark's side. He is stuck until he gets the land swap so the sewer easement reflects where the sewer actually is.

Af – currently the swr easement extends 30 feet into the property, wouldn't allow the home to be moved at all. They did straighten out the swr in that area.

Lh – just a matter

Dk – the pipe has actually been moved.

Af – yes.

Dk – so getting the easement to reflect the location of the pipe.

Af – yes.

Robin S???, 21 ameriscoggin (u17-006), an abutter, in front of Mr. O'Donnell, not seen a plan since the original plan in may. Is this the final plan.

To – this is the final plan.

Rb – approval here is for a building that is consistent with what has been submitted.

Rs – this is in my backyard. She owns land at the end of chestnut street. There has a been a tenant in this home, and part of her property has been taken over with plantings by the tenant. She is concerned that the use of her land not be included in the plan for his house.

Rb – land other than the parcel u17-006?

Rs – no. don't know if chestnut is a public street?

Af – no, it is owned by the assoc.

Rs – does that change how the land is used?

Af – no, just htat the town doesn't maintain the road.

Rs – concerned that the plan fit the neighborhood.

Lh – that's why he went and talked with neighbors, that's why the roof is lower than originally planned and why the roof will be perpendicular to the water. Are going up five feet. Intention is to have two floors, but may not have 8 foot ceilings in all rooms. May have to change the roof pitch slightly to accommodate upstairs rooms, but this is essentially the final plan in regards to how the outside of the home will look.

Drew Tieman, 8 Oak Street, U17-24?, thanks the applicants for going aroundt he neighborhood and asking for comment ont eh plans. Would like to have conditions placed on the approval, 26.5 feet high, simple gable roof with no dormers, perpendicular tot eh street.

Kirstin Plaxy, here for her in-laws who live across the street, would also like to see a height limit of 26.5 feet.

Public comment period closed.

Wa – side or rear elevations provided?

Af – no.

Rb – front elevation on Chestnut street, and a plot plan.

Af – only requirement is a plot plan.

Dk – presented that the roof is perp to street, no dormers.

Wa – how can we tell if it is compatible with the neighborhood?

Lh – provided photos of all abutting homes.

Wa – thanks for that. How does the board assure themselves that it will be compatible. Lots of shingles in the neighborhood,

Rb – 8.3 is built into 6.9 so those issues will have to be discussed.

Af – and 8.7 as well.

Wa – discusses general compatibility with neighborhood, design, scale and bulk. Picture provided looks like clapboards, but all I see in neighborhood is shingles.

Lh – we are aiming for shigles

Wa – but looking at sketch it looks like clapboards

Lh – unless I'm told otherwise it will be shingles.

Fm – applicant has done a nice job being in contact with his neighbors, but there is some question as to how firm the plans are, for example changing the roof pitch might affect the water views. As there is a built-in delay due to the swr easement issue, maybe the best thing is to come back with more detailed plans.

Dk – applicant willing to stipulate shingles

Lh – that is our intent.

Dk – height is 26.5, not to exceed that, obviously can come down. If the roof line were to flatten in such a way to have the impact on the neighbors that a dormer would have, that would be an issue.

Lh – we're playing with the interior, but have to have the snow come off the roof, so only so much you can do, there may be an foot and an inch.

Dk – ceo deals with consistent with approval, substantially with what is shown here, if CEO thought a change was outside of that, he would stop the work and have that applicant come back.

Lh – didn't want to go to the expense of having more complete plans if the tear down and rebuild would not be viable. Only other option is to rebuild within the structure as exists, but the portion of the home that exceeds the lot line is on the ground and there is mold creeping in there.

Dk – lot coverage more than ??? is that covered?

Fm – calculated lot at 4000 feet, 1360 home, so it is within the allowed.

Dk – sewer easement, what is the timing fo that?

Lh – the pipe is not even within the current easement, it is outside of it. The survey came in this week, it is with the atty now. Then have to get it to the twon atty, don't' have any idea how long it will take, the survey took two months.

Jt – agrees with the approach, but feels that the board needs to see more information, would rather see developed plans, far too many questions for his comfort. Not sure this roof pitch is compatible with the neighborhood, the others look 12:12, this is 7:12, and he may need 6:12 to get the second floor. Given the other time issues, would like to see the other elevations, siding materials, windows and doors, roof material, some indication that the design intent is compatible.

Wa – any metal roofs down there?

Af – I think there are.

Wa – within our jurisdiction to ask for that, so the record is clear.

Sg – couldn't tell from site plans if meeting 20 foot setbacks.

Af – it does.

Sg – agrees with other board members, can't tell from this sketch what the end product will be.

Worth the exercise to provide a scale example of what this buidign will look like, maybe not full plans.

Rb - the plot plan notes a patio, what that will be made of?

Lh – paver briks

Rb – allowd

Af – can be within the row, but not concrete or asphalt.

Rb – measured the footages between he buildings.

Lh – ??? is the closest. 20 feet from Mr. Clark due to the swr easement.

Rb – 20 feet from any abutting property

Lh – yes.

Rb – two offstreet parking spaces?

Lh – there will be.

Rb – driveway pavers and a garage. One car garage?

Lh – yes.

Rb – park a car on the pavers?

Lh – yes.

Rb – single family dwelling.
Wa – you are going to live there.
Lh – sooner or later, yes.

Jt – plan has driveway pavers at 10 feet, is he required to have two spaces.
Rb- 6.9 e requires two spaces.
Jt – doesn't look to me, looks 10x10, intent to parallel park there.
Lh – will be able to park on the easement, no concrete on the easement, patio will be the pavers, will have to narrow the flower bed to be able to bring a vehicle in there.

Dk – board sentiment s to table to allow the app to coe back with more detailed plans?
Rb – seems accurate. Shares that sentiment. If the vote was to approve, he felt it would be denied. He is concerned about the lack of elevations, detail about the driveway. Probably tabling would be appropriate here, so applicant could come back next month with more information to show the neighbors essentially what the final product will look like.

Dk – liked how the applicant has worked with the neighbors, thinks the plan is working within the ordinance, the hesitancy on his part is not with what he is trying to do, but with the lack of detail, applicant should be comfortable with the pitch of the roof, materials of exterior and roof, so board can determine if it is compatible with neighborhood. From what applicant has described it will be, but there is nothing in the application that the board can be comfortable with, and that the CEO can enforce.

Rb – thinks the application is good, and a good start. He thought that the applicant should look at the king application from earlier tonight to get a sense of what theya re looking for.

Lh – the board is more concerned with the outside of the building, and not the floor plan.
Rb – suggested the applicant look at the ordinance.

Wa – thinks the interior is not within their jurisdiction, but the exterior the whole neighborhood has to live with, and the CEO needs to know he is enforcing what the Board has approved.

Jt – when he goes to get a building permint, what drawings will he ned.
Af – plan view of all floors, framin details, section drawing, elevations showing siding and roofing.
Jt – he needs those anyway, so maybe he can get those to show to the board. Materials, siding, placement of windows and doors.
Lh – as long as windows placed on exterior, siding and roofing, that what you are looking for.
Dk – if the interior has 6 foot ceilings on second floor, don't think that is what will be built.
Looking for envelope of the building.
Sg – has to have the character of the building indicated.

Wa – often have this issue, don't want to go to the expense before approval. But for enforcement, not necessarily engineered drawings, but more detail.

Af – he'll have more than two weeks to get more information in for the next meeting. He'll need to turn them in by August 14th.

Dk – moved to table the motion until the next meeting.
Fm – seconded.

Motion carries 5-0.

Election of Chair and Vice Chair:

Af – new security measures being proposed by the Town Council will require an official chair and Vice Chairs for all committees. Have to elect a chair once a year, but it doesn't have to be a new person. It will now be a calendar year.

After some discussion, the Board voted 5-0 for Kevin McCarthy as Chair and Rich Bayer as Vice-Chair.

Meeting adjourned 8:34 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary

DRAFT