

**TOWN OF FALMOUTH
BOARD OF ZONING APPEALS
TUESDAY, AUGUST 26, 2008**
These minutes are not verbatim

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

MEMBERS ABSENT: Kevin McCarthy (Chair), Dennis Keeler

The meeting opened at 6:38 pm.

Willie Audet and Stan Given were designated as voting members for the meeting.

Minutes:

Jay Meyer moved to approve the July minutes; Stan Given seconded. Minutes approved 4-0.

Agenda Items:

1. **Joe Reed**- Is requesting Conditional Use approval under Section 6.2 for an addition at 13 Depot Rd Parcel # U11-009, zoned "RA".

Neil Wallace, representing the applicants, explained that the applicants are looking to add to their home in order to have a family member live with them. The addition will blend with the house; the exterior will be sheathed with the same shingles.

Public comment period opened; no public comment.

Willie Audet asked why the application was before the board.

Al Farris said that the front corner of the building is closer than 20 feet. Mr. Farris discovered that the front corner of the proposed addition is about 18 feet from the side property line, which makes this application a 6.2b.

Rich Bayer asked if there were any notice issues, and Al Farris said there were not.

Jay Meyer asked if it is nonconforming due to lot width.

Al Farris said yes. The lot width is less than 90 feet, that zone requires 125 feet.

Willie Audet moved to approve the application under 6.2b; Jay Meyer seconded.

Application approved 4-0.

Completeness of applications:

Al Farris stated that the remaining applications are complete.

2. **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 ".

Lincoln Hayes presented his application.

Public comment period opened; no public comment.

Stan Given observed that the materials submitted this month gave a much better sense of the completed project. He struggled to get a sense of how this project fits with the character of the neighborhood. He asked about the finish work – the window trims, etc. Mr. Hayes said that they will be vinyl windows, and they will be trimmed.

Jay Meyer wanted to confirm that this was the current site plan. Mr. Hayes said it is.

Rich Bayer asked about the front elevation submitted that was labeled “Option A”. He wondered if this was the final plan. Mr. Hayes said it was; he had two options and that was the one he picked. This is the side that faces Chestnut Street and the water.

Rich Bayer asked about the pitch of the roof. Mr. Hayes said they were leaving it at 7/12.

Rich Bayer asked if what was pictured was what would be built. Mr. Hayes said it was.

Jay Meyer asked about the sewer easement issue. Mr. Hayes discussed the process surrounding the sewer easement. He expects it to be resolved in the next week or so.

Jay Meyer wondered if that would have any effect on the lot coverage. Mr. Hayes said it would only if Mr. Plouffe, the town attorney, or Pete Clark, the Wastewater Superintendent, had a problem with it. If it has to be wider than 20 feet off the property line, there would be a problem. It is at max now; if the easement moves, the house will have to be narrower to accommodate the easement. The easement is on the side of the property abutting Dave Clark.

Willie Audet asked about the plans - if there was a garage on the building. Mr. Hayes said that the original plan last month had a garage, but it is now going to be a shed.

Willie asked if there would be parking under there. Mr. Hayes said no, just storage.

Rich asked if there would be off-street parking for two cars. Mr. Hayes said yes, there is room on the side of the house and in front of the house.

Jay moved to approve the application, with the condition that, in the event that it is necessary to narrow the building due to the sewer easement, that it be allowed to be narrowed up to two feet without further approval. Willie Audet seconded.

Application approved 4-0.

3. **Jeremiah & Susan Burns**- Are requesting Conditional Use approval under Section 6.2a for an addition at 6 Water’s Edge Rd. Parcel # U05-011, zoned “RC”.

Paul Seamen from Harborside Design, representing the applicants, presented the application. The building is nonconforming and they have been working within their constraints. Their request today is to raise the ridge height over a portion of the building. This is to allow an 8 foot

ceiling height within the building. This portion of the building is to the interior of the lot. He handed the Board a picture showing the building and the projected impact of the change. He also showed the board a scaled model of the building.

Jay asked if it was the whole ridgeline that was being raised, or just the back part. Mr. Seaman said it was the back 2/3 of the building only.

Al Farris said that, because the addition goes all the way to the back of the building, this application would be under 6.2b, and not 6.2a.

Rich Bayer asked why that was.

Al asked how far back the raised roof began.

Mr. Seaman said about 22 feet.

Al Farris asked if it went to the rear of the building.

Mr. Seaman said yes.

Al Farris said that, since it would be within the rear setback, it would be a 6.2b.

Mr. Seaman said that the drip line does not further encroach.

Susan Burns, applicant, said that she spoke with all the uphill neighbors that might see the deck, and they were all fine with it. She also went uphill and looked at the mockup.

Rich asked if they actually nailed the boards to the roof to get the mock up.

Mr. Seaman said they did.

Public comment period opened:

Dr. Keene, a direct abutter, expressed his concern with a sump pump under the Burns' home, which drains directly on his property. Due to his home being directly below the Burns' home, they have suffered from flooding in their basement on several occasions. He wanted to know what recourse they have in the event that this flooding happens again. He showed a sketch to the Board showing the approximate location of the drainage pipe. His lot is U05-010, which fronts on Waite's Landing Road. He said he had no other concerns about the changes to the building.

Al Farris said that the Board has no jurisdiction over water draining from one property to another.

Mr. Prawer, of 9 Water's Edge Road explained that his concern was about the water views, but if the footprint remains the same, the increase in the height of the roof would not have any bearing on his view.

Mr. Seaman said that he appreciated the concerns of Dr. Keene. He said they did a full survey of the building and observed a sump pump in the basement. They don't yet know where the discharge is located, but the building is being professionally engineered. All stormwater drainage will be contained on the site, and they will include a swale near the property line so they will not shed water onto the Keene's property. There is a lot of ledge in the area. If this issue is caused by a sump pump discharge, it will be taken care of.

Rich Bayer asked if what they are doing impacts the flow of water.

Mr. Seaman said not that he is aware of. There is a basement in part of the building, and the rest will be either backfill or crawl space. There will be a landscape designer, and the emphasis will be on resolving water issues and creating embellishments to the landscape.

Al Farris explained that currently the Town has no regulation that would allow the Board to place any condition on their approval that they not shed water onto someone else's property. The only existing regulation to that effect concerns subdivisions.

Willie Audet observed that section 8.3h requires that a project "will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion". He asked why this isn't within their jurisdiction.

Al Farris said that part, yes, but it boils down to the flood hazard ordinance which doesn't encompass ordinary stormwater runoff.

Public comment period closed.

Willie Audet was somewhat bothered with the testimony about the drainage issues, but the applicant is on the record that it will be taken care of.

Al Farris stated that the applicant can be held to statements made on the public record.

Mr. Seaman said that they can't control the overall flow of stormwater onto abutting properties, but the specific problem that was brought to his attention was the sump pump. If the water in the Keene's basement is caused by subsurface ledge or some other reason, they can't assist.

Jay commented that they have some basis to consider drainage problems. The change in the ridge doesn't add to that, but there is testimony that there is a current problem. There could be a civil liability, and he felt the Keene's had the right to request that they fix it.

Rich Bayer asked about a dormer that was referenced in the application.

Mr. Seaman said he thought that was part of the original application.

Willie Audet was concerned about water shedding off the newly raised ridge.

Mr. Seaman described the details of the drainage system. In addition to a perimeter drainage system there will be a buffer strip with the intention of slowing down and sending water under the surface. Right now there is no perimeter drain, and the sump pump only serves the water in the basement which is part concrete and part ledge. The water collects in one area, and the sump pump is specific to that problem; it doesn't serve the perimeter. The request today raises the height of the roof 20 inches, and does not alter the roof pitch or surface area, so it would not change the water flow.

Rich Bayer commented that it was helpful to look narrowly at what was before the board, namely the roof height. They looked at the water disposal system last May at the original approval.

Stan Given moved to approve the application; Willie Audet seconded.

Dr. Keene expressed his thanks to the Burns' for taking steps to help them.

Application approved 4-0.

Meeting adjourned 7:26 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary