

Town of Falmouth Community Development Department 271 Falmouth Road Falmouth, ME 04105 207.781.5253

Board of Zoning Appeals Tuesday February 26, 2013 6:30PM Minutes Falmouth Town Hall

MEMBERS PRESENT – Dennis Keeler, Jonathan Berry, Jay Meyer, Stan Given,

MEMBERS ABSENT - Willie Audet, Roland Beaudoin (Associate)

STAFF PRESENT - Justin Brown, Code Enforcement Officer

- 1. Call to order: The meeting was called to order at 6:30 pm by Vice-Chair Given.
- 2. Minutes:

October 23, 2012

A motion was made and seconded for approval of the of the October 23, 2012 minutes with minor changes.

Vote: Yea – Unanimous.

November 27, 2012

A motion was made and seconded for approval of the November 27, 2012 minutes with minor changes.

Vote: Yea – Unanimous.

January 22, 2013

A motion was made and seconded for the approval of the January 22, 2012 minutes with minor changes.

Vote: Yea – Unanimous.

3. Discussion and finding that all applications presented for this hearing are complete.

It was determined by the board that the remaining agenda applications were substantially complete and ready to begin the review process. Discussion ensued regarding timeliness of emails submitted by abutters.

4. Applications

a) **57 Hurricane Rd. Robert Libby representing David & Emily Ghiorse-Tabled from January.** Requesting Conditional Use under Section 5.22.1 for an Accessory Dwelling. Parcel R06-083-J, zoned FFm.

Discussion ensued regarding the completeness of the application.

Motion: Mr. Meyer moved to find that the application for Libby road is incomplete and tabled pending receipt of written floor square footage calculations.

Vote: Yea – Unanimous.

b) **8 Kelley Rd. Stacie Bowden**- Requesting Conditional Use under Section 6.2 for a dormer/ addition. Parcel U01-211, zoned RA.

Mr. Audet moved to move this application up in the agenda as it is straight forward and the applicant has a little one with them. Board expressed consensus and the item was taken up.

Mr. Bowden was present and gave an overview of the proposal.

Board comments and questions included:

- An existing piece running one and ¹/₂ stories will be raised to make "L" access more practical.
- Clarification on what is existing and what is proposed.
- Materials in the packet were reviewed.

No one was present from the public to speak to this application.

Motion: Mr. Keeler made a motion to approve the application. The motion was seconded by Mr. Berry.

Vote: Yea – Unanimous.

c) **77 Waites Landing Rd. Geoffrey LaFond**- Requesting Conditional Use under Section 6.2 to construct a garage. Parcel U05-019, zoned RC.

Geoff Lafond was present and gave an overview of the proposal. He feels there is a glitch in the code by omission. He is not allowed to build a detached structure. Mr. Brown has advised him to propose a structure that attaches the shed garage to the house. He presented an aerial view plan. He asked the board if they can approve an independent structure under the current ordinance language instead of attached.

Discussion ensued regarding "glitches" in language and intent vs. implemented language.

Mr. Lafond indicated he would prefer not to have to build a 30' breezeway. He understands the board has to be concerned with setting a precedent. He is prepared to attach the garage but would like the board to entertain some option to avoid this action. It is undesirable as the board can see from the elevations he provided. He can connect it as he meets all other provisions of the ordinance. Abutters support the project. Ultimately he wants to build a detached structure as opposed to attached.

Board comments and questions included

- 6.2.d in the ordinance which allows for an expansion or enlargement which Mr. Brown indicated does not apply in this situation.
- The need for ordinance amendments to avoid unintended consequences such as this situation.
- Alternative locations for a building. This is less desirable by the applicant and would significantly affect existing landscaping.
- Inability of the board to go against the language in the ordinance.
- Difference between a shed and a garage.
- Option of having the Council amend language in the regulations.
- The board needs to have a plan showing the footprint with setbacks and how and where the structure will be attached. The existing plan shows a 30' breezeway.

Motion: Mr. Keeler made a motion to table the application. Seconded by Mr. Audet

Vote: Yea – Unanimous.

d) **240 Gray Rd. Aroldo C. Ribeiro** - Requesting a Variance for a side setback for a garage. Parcel R06-032-A, zoned VMU.

David Titcomb surveyor was present in the audience on behalf of the applicant. Mr. Given stated that Mr. Titcomb does work for his company. He did not feel this would impact his ability to make an unbiased decision.

Attorney Jim Barnes was present and gave a presentation of the proposal. The existing garage sits within the setback required. Mr. Barnes reviewed each variance criteria individually with evidence supporting how the application meets each criteria as outlined in application submission materials.

Board comments and questions included

- The Foust application as referenced by Mr. Barnes. It was deemed a mislocated building.
- Building permit applications materials used for the issuance of a building permit for the garage.
- Section 8.4 vs. 8.5 and it was determined this must be considered under 8.4
- Use of garage (business and residential)
- Logistics of moving the garage.
- Historical interpretation of property boundary locations.

- Idea of connecting structures
- Source of materials in application packet
- Tearing down and building a new garage.
- Option to purchase a sliver of land from CMP. They are reluctant to do so. They did write a letter.
- Items raised in the letter submitted from abutter Winslow.

No one from the public was present to speak to the application.

A letter submitted from neighbor Mr. Winslow was referenced. Mr. Winslow has objections to the proposal. No one had seen this letter yet and the board and applicant's agent took the time to review at this time. Date stamp received February 17.

Mr. Titcomb reviewed aspects of the property boundary historical interpretation.

Further discussion ensued as to the history of the interpretation of the property boundary. The board determined that there is too much new information introduced at this meeting to allow the board to make a decision on the application.

The board requested that staff send them the Foust application materials and Giobbi application materials for the next meeting.

Motion: Mr. Meyer made a motion to table the application to allow the applicant time to provide responses to Mr. Winslow's concerns and other matters raised by the board at this meeting. Seconded by Mr. Keeler.

Vote: Yea – Unanimous.

e) **2 Town Landing Rd. Dwight Herdrich-** Requesting Conditional Use under Section 6.2 for an enlargement. Parcel U17-055, zoned RA.

Dwight Herdrich was present to speak to this application. The middle garage area is the part in question. There is a granite ledge where the basement will go. In the original approval the basement was going to be 900 square feet and he now needs to come up with additional living space to meet mortgage requirements. Blasting is an undesirable option and will cause water issues. The new plan shows living space above the garage. Mr. Herdrich is trying to work with concerns of the neighbors and within parameters outlined by his lending institution.

Abutter Andy Higland of 3 Town Landing Road which is directly across the street from the subject property was present and spoke. He is not thrilled about the length and size but is trying to be neighborly and working it out with the applicant. Moving the tower has been appreciated. Mr. Herdrich has been working with the neighborhood.

Board comments and questions included

• Emails regarding this application were submitted close to the meeting and which the applicant did not see until this evening.

- Conditions of original approval.
- Building permit has been issued for original approval.
- Egress windows.

Motion: Mr. Keeler made a motion to table the application to allow the sketch of the building to be modified in accordance with the discussions of the board this evening. The motion was seconded by Mr. Berry.

Vote: Yea – Unanimous.

5. Adjournment

The meeting adjourned at 9:00PM.

Respectfully submitted,

Dawn Emerson Recording Secretary

*Please note that this is not a verbatim accounting of the meeting. An inclusive digital video file of the meeting can be accessed on the Town of Falmouth website.