

11/26/2013

**FALMOUTH BOARD OF ZONING APPEALS  
MEETING MINUTES  
TUESDAY, JULY 23, 2013, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Willie Audet (Chair), Stan Given, Jonathan Berry, Roland Beaudoin (Alternate)

**MEMBERS ABSENT:** Dennis Keeler, Jay Meyer

**STAFF PRESENT:** Justin Brown, Code Enforcement Officer

**1. Call to order**

The meeting was called to order at 6:30 pm.

Roland Beaudoin was appointed as a voting member.

**2. Approval of minutes from the previous hearing.**

Willie Audet moved discussion of the minutes to the end of the agenda.

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

Willie Audet said the Lafond application was listed as tabled on the legal notice of the meeting's agenda. Mr. Lafond was waiting for the amendment passed by the Council last night. He polled the Board as to whether they should hear the item at this meeting despite its being legally noticed as tabled. The consensus of the Board was to leave its status as tabled and hear it at the next meeting.

**4. Agenda Items**

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

**b. 45 Applegate Ln. Royal River Renovations Representing Ed & Mary Collins - Requesting Conditional Use under Section 6.2 to add a deck. Parcel U16-002-0032, zoned RA.**

Christopher Adshead, representing the applicants, said they are looking to build a deck the same dimensions as and directly over the existing brick patio. They have approval from the Applegate Condo Association.

Jon Berry asked if they would have any trouble meeting the requirements imposed by the condo association. Mr. Adshead said it shouldn't be a problem. It doesn't alter their intended decking.

Stan Given said the deck would require more sauna tubes than they are showing in the plans, in order to meet those requirements. Mr. Adshead said the drawing doesn't accurately represent that, but they will have to add an additional three sauna tubes to make it a free-standing structure.

Stan Given suggested that the Board make that a condition of approval.

Roland Beaudoin asked how the deck surface would be flush with the interior floor. The drawing shows the deck right up against the building.

Mr. Adshead said the original drawings don't reflect the change they will make to comply with the condo association's requirements. The deck will be the same height as the floor in the unit.

Roland Beaudoin asked about a plot plan. Justin Brown said there is a plot plan that was submitted; it isn't to scale but does show the setback. He considers the application to be complete as it as submitted.

Public comment period opened; no public comment.

Stan Given moved to approve the application under section 6.2, with the condition that the deck be revised to include additional supports sufficient to make the deck free-standing with a stand-off of 2 inches, as required by the Applegate Condo Association in a letter dated May 23, 2012. Jon Berry seconded.

Motion carried 4-0.

Willie Audet amended the agenda, taking item e. out of order.

**c. 22 Applegate Ln. Robert Davenport Representing Henry & Cheryl Lawson** - Requesting Conditional Use under Section 6.2 to add a deck. Parcel U16-002-011, zoned RA.

Robert Davenport said this application was similar to the last one; there is an existing patio space outside, over which they want to install a deck of the same size. The deck is not allowed to touch the building so it cannot be properly flashed. The drawing shows the deck two inches away from the building, which will prevent water from damaging the shingles.

Justin Brown read the letter from the Applegate Condo Association into the record.

Roland Beaudoin asked about the dimensions of the deck; Justin Brown said it is 7'x19'.

Mr. Davenport said it is actually 8'x18.5'; that is the size of the concrete slab. He can ask the Condo Association to amend the letter if the Board requires.

Roland Beaudoin asked about expansions at Applegate and why they differ from traditional expansions. Justin Brown said it is due to the unique nature of the Applegate condos. Even though they meet setbacks, they can't do lot size calculations because it is a condo association and is all one lot.

Public comment period opened; no public comment.

Mr. Davenport said the last picture in the packet is of a neighboring unit, showing that these decks are common in the development.

Jon Berry asked about egress from the units. Justin Brown said typically they have a step or stoop.

Jon Berry said the entire development is non-conforming, and that is why these projects come to the Board.

Jon Berry moved to approve the application under section 6.2 for a deck of 7'x19'; a deck of up to 8'x18'6" is approved on the condition that a letter from the Condo Association agreeing to the change is submitted to the Town. Roland Beaudoin seconded. Motion carried 4-0.

*c. (TABLED) 1 Quaker Ln. Timothy & Lisa Saulter - Requesting Conditional Use under Section 5.21 for a Home Occupation. Parcel U62-001-001, zoned RA.*

**d. 16 Riverside Dr. Whipple Callender Architects Representing Richard & Maya Bulman** - Requesting Conditional Use under Section 6.2 for an addition. Parcel U01-181, zoned RA.

Ann Callender of Whipple Callender Architects presented the application. The Bulmans are looking to add a second story to the one-story section at the back of their house in order to add two bedrooms. The lot is non-conforming. There are no changes proposed to the current footprint. There is an error on the plot plan. A survey revealed that the home is 9'7" away from the lot line; she has therefore moved the second story dormer back slightly to meet the ten foot setback. She provided the Board with copies of the

survey, which she received today. She presented a diagram of the home showing the existing overhang and the proposed dormers.

The Board discussed the changes made; Stan Given said he was comfortable as long as they stayed within the plan of the existing home and met the 10 foot setback.

Public comment period opened; no public comment.

Jon Berry moved to approve the application under 6.2 as shown in the amended materials submitted to the Board; Stan Given seconded. Motion carried 4-0.

**f. 72 Longwoods Rd. 58 Longwoods Realty Trust. Representing Jewell & Bulger** - Requesting Conditional Use under Section 6.9 to tear down & rebuild a Single Family Dwelling. Parcel R01-020, zoned FFm.

Andre Bellucci, representing the applicants, provided the Board with materials proving right, title and interest as well as an exterior cross-section of the proposed building, showing a final height of 24' 3.75". This is a tight site. It is on public water. He has a registered boundary survey for the parcel. Dick Sweet of Sweet Associates did the soil testing. He is proposing to tear down the existing structure, relocate a new home to be more conforming with the house next door, and install a new disposal field where the existing house is located. He has also spoken with one of the abutters about acquiring an alternate disposal field, since this is such a tight site. The existing home is 28'x34' and the new home would be the same size. The rebuild makes the lot more conforming and allows for a deck within the setbacks. If necessary, they may have to shrink the width of the house to 24'x32' to allow for more field area.

Roland Beaudoin asked about the size of the lot; Mr. Bellucci said it was a 100 square foot lot. Lot coverage for this structure is less than 50%.

Justin Brown said his calculations showed the house at 1076, including the deck but not any stairs on either side. That is acceptable.

Roland Beaudoin asked where the septic system will be located. Mr. Bellucci said the current plan is for it to be located where the existing home sits now.

Roland Beaudoin asked about a separate plan, which shows it in a different location. Mr. Bellucci demonstrated on the plans where the septic will be located.

Stan Given said there are no lot-coverage calculations submitted.

Jon Berry asked what is on the lot now. Mr. Bellucci said there is a 24'x28' home there now; it is an open-concept, 3 room house. It sits very close to the road.

Public comment period opened.

Bill Gardiner owns a piece of property across the street. He said this house is almost like a camp; it is right on top of the road. If it can be moved, it would be a major improvement. The next application is for the roughest house on the road. He hoped both of them could be approved.

Public comment period closed.

Stan Given asked about the land Mr. Bellucci was looking to get from the abutter. Mr. Bellucci wants to buy an easement from the abutter; he indicated the location of the easement.

Willie Audet pointed out that the purchase and sale is under his name. Mr. Bellucci said yes, he has an assignment to the LLC; he took title after the submittal of the application to the Town.

Stan Given moved to approve the application under 6.9; Jon Berry seconded for purposes of discussion.

Jon Berry wondered if they should amend the motion to allow for the relocation of the septic to make it more conforming since negotiations are underway.

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Justin Brown didn't think it was necessary; the Board's approval does not cover the location of the septic, only the tear down and rebuild.

Jon Berry asked if it would have to come back to the Board if the septic was located on someone else's property; Justin Brown didn't think it would.

Motion carried 4-0.

**g. 58 Longwoods Rd. 58 Longwoods Realty Trust. Representing Frank A. Sanborn** - Requesting Conditional Use under Section 6.9 to tear down & rebuild a Single Family Dwelling. Parcel R01-015, zoned FFm.

Andre Bellucci, representing the applicants, submitted additional material to the Board. He explained that they didn't think they needed to submit a septic design with the application. He has a letter from Dick Sweet of Sweet Associates confirming that the lot has good soils. He was under a purchase and sale agreement with the owner when he submitted the application; he has since taken title. There is a copy of the recorded deed. He submitted a cross-section of the proposed home demonstrating the finished height. The proposed home will conform to the ordinance setbacks for that zone. The placement of the home may change due to topography or site distance once the rest of the lot is cut.

Stan Given asked if the proposed septic shown on the plan is their current proposal. Mr. Bellucci said yes; it is the only location on the lot with suitable soils.

Roland Beaudoin asked about the easement across the lot; Mr. Bellucci said it is the CMP easement. The septic is located in the easement. He also has an alternate location off-site on an abutter's property.

Public comment period opened; no public comment.

Stan Given moved to approve the application under 6.9; Jon Berry seconded.

Willie Audet asked if Mr. Bellucci had an assignment for the title; Mr. Bellucci said that is correct.

Motion carried 4-0.

## **2. Approval of minutes from the previous hearing.**

Jon Berry moved to approve the April minutes. Stan Given amended the April minutes. The April minutes were tabled to allow for corrections to be made.

Jon Berry moved to approve the May minutes. Stan Given amended the May minutes. Willie Audet determined that the changes were *de minimis*. Stan Given seconded the motion. Amended minutes approved 4-0.

The June minutes were tabled.

The meeting adjourned at 7:32 pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary