

**FALMOUTH BOARD OF ZONING APPEALS
MEETING MINUTES
TUESDAY, NOVEMBER 26, 2013, 6:30 P.M.
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

MEMBERS PRESENT: Willie Audet (Chair), Stan Given, Jay Meyer, Jonathan Berry, Dennis Keeler, Roland Beaudoin (Alternate), Wendy Paradis (Alternate)

MEMBERS ABSENT:

STAFF PRESENT: Justin Brown, Code Enforcement Officer

1. Call to order

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

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 hearing.

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

Jay Meyer said volume calculations were missing from the McDermott application. Justin Brown said no additional material has been submitted but, considering the volume of both first and second floor, it seems well within guidelines. The Board decided to hear the application.

4. Agenda Items

A. 43 Waites Landing Rd, Paul Attardo representing Dr. Katherine Pope - Requesting Conditional Use under Section 6.2 for an addition. Parcel U05-021, zoned RC.

Mr. Attardo explained that Dr. Pope wants to put on a small addition. The home complies with all standards except road frontage. They will tear down 740 sf of the existing home and add 1300 sf for a new master bedroom wing.

Jon Berry asked if the new structure is going into the right of way.

Mr. Attardo said the lot is bifurcated by a public right of way. That is an approved private way that accesses the lot behind hers. The Planning Board approved an amendment to relocate the right of way to its current location.

Jay Meyer wondered if emergency access was adequate. Justin Brown said this has been functioning as a driveway; there have been no safety concerns brought forward.

Stan Given asked if any bedrooms were being added to the home; Mr. Attrardo said no.

Dennis Keeler asked about the Planning Board approval. Mr. Attardo said the survey was done when this was brought to the Planning Board; the relocation was approved by the Planning Board at a recent meeting.

Roland Beaudoin asked about a plan for the interior layout and the lot coverage calculations. Justin Brown pointed out where the calculations were located; they have been done to his satisfaction.

Public comment period; no public comment.

Jay Meyer moved to approve the application; Stan Given seconded. Motion carried 5-0.

B. 32 McDermott Wy, Arthur McDermott - Requesting Conditional Use under Section 6.2 for a dormer and deck. Parcel R09-044, zoned RBm.

Claire Langlois is Arthur McDermott's daughter and represented the application. They want to add a dormer and a deck.

The Board discussed the missing volume calculations. Justin Brown said, based on the size of the proposed additions, it is clear that it is under the allowed 30% expansion.

Dennis Keeler asked the location of the dormer; Justin Brown showed the location on the plans.

Dennis Keeler asked if there have been any other additions to the home; Justin Brown said he found no record of any, and the cutoff date of the expansion limitation is 1989.

Dennis Keeler asked how they calculate decks under that expansion limit. Justin Brown said they are counted toward the square footage or floor area expansion, not the volume expansion, unless they are enclosed.

Dennis Keeler asked about the floor area of the deck. Justin Brown said the floor area of the expansion came out to 17%. That is based on the square footage of the rest of the house, which he cross referenced with the tax card. The deck is 440 sf.

Dennis Keeler asked how he calculates the square footage of the dormer. Justin Brown said there is a ratio based on the height of the ceiling.

Dennis Keeler asked what the allowable floor area expansion would be for this house, based on the square footage recorded on the tax card.

Justin Brown said he calculated that they could add 777 sf. That would be an additional 337 sf after the proposed deck.

Dennis Keeler asked if Justin Brown was comfortable that the dormer would not bring them to the limit.

Justin Brown said it would depend on if it was full usable area; without the volume calculations to show the pitches of the roof, he couldn't answer the question.

Dennis Keeler said the roof has a shallow slope; he thought the space might be usable all the way to the back wall.

Justin Brown thought from center of ridgeline they might have the height to have a few feet of usable space on each side of the ridge already. That wouldn't count toward the expansion limit.

Dennis Keeler said the problem is they don't have a good baseline from which to measure the 30% expansion. Justin Brown said that was correct.

Dennis Keeler asked if Justin Brown was comfortable that they were within the limit; Justin Brown said no, but the applicant could provide evidence prior to issuance of a building permit. If they didn't meet the limit, they would have to change their plans at that time.

Stan Given said the plot plan was not to scale. He thought the only change to the footprint of the building was the deck. Justin Brown confirmed that was correct.

Stan Given said there was no way to confirm that they didn't violate any setbacks.

Willie Audet asked if there is a second floor. Ms. Langlois said there is.

Willie Audet said the second floor is listed as 864 sf; he felt this was incorrect. They should come in four or five feet from each wall to compensate for the pitch of the roof.

Jay Meyer felt they could either table the application for more information, or approve it with the condition that they show that they meet the 30% limit to Justin Brown's satisfaction.

Public comment period opened; no public comment.

Dennis Keeler moved to approve the application with the condition that, prior to the issuance of a building permit, sufficient information is provided to the CEO that the expansion does not exceed the 30% limit; Jay Meyer seconded.

Ms. Langlois understood and agreed to the condition.

Motion carried 5-0.

C. 16 Shoreline Dr, Andreas Stefan/Valerie Fuller - Requesting Conditional Use under Section 6.2 for the additions of dormers. Parcel U01-078, zoned RA.

Kevin Wright, representing the applicants, said they want to put two dormers onto the house. The dormers were planned as part of a previously approved project by the prior owner, but were not constructed at that time. Mr. Stefan wants to remove the existing skylights and put on the dormers.

Jay Meyer pointed out that the rear setback is mislabeled on the plans; it should be 40 feet not 20 feet, but that doesn't affect this approval as the dormers are within the existing footprint. The application materials represent that the dormers are not within 10 feet of any property line; Mr. Wright confirmed that was correct.

Willie Audet wondered if there were any issues from the prior approval that carried forward into this application. Justin Brown reviewed the file and found none.

Public comment period; no public comment.

Stan Given moved to approve the application; Dennis Keeler seconded. Motion carried 5-0.

D. 22 Harding Ave. Ben & Trisha King - Requesting Conditional Use under Section 6.2 for an addition. Parcel U04-063, zoned RA.

Mr. King explained that they want to add a mudroom to their cape. The neighborhood is characterized by small lots with small buildings that are close to the setback limits.

Wendy Paradis wondered if there was another option; she didn't think this works unless it connects to the garage.

Roland Beaudoin said the proposed mudroom is 8 feet wide; Mr. King confirmed that.

Roland Beaudoin wondered if they can narrow that and still have it be usable.

Mr. King said they considered that, but didn't want to put in all the work of a full foundation for a confined space. They want to have enough space for a small bathroom and plenty of storage. To meet the requirements they would have to shrink it down to 5 feet, which would be pretty tight. He felt his proposal meets the intent of the ordinance; he doesn't want to connect it to the garage.

Roland Beaudoin wondered about gaining the extra three feet from the interior of the home, instead of extending it out.

Mr. King said that is their kitchen. The goal of the project is to modernize a structure that was built in 1949. They added full dormers a few years ago to add more space. The goal is to add more usable space, meet the character of the neighbor, and make the home more livable.

Stan Given wondered about the variance request included in the packet; Mr. King clarified that was his mistake. The intent was to request a conditional use, not a variance.

Jay Meyer asked about the patio; Mr. King said it is concrete pavers.

Jay Meyer asked if there is any other connection between the house and garage; Mr. King said there isn't.

Jay Meyer wondered if they had considered any type of covering; Mr. King said he had. Adding a covering wouldn't look good and wouldn't gain them a lot.

Jay Meyer wondered if an arbor would qualify as a covering. Justin Brown said any combination of materials other than landscape materials would probably be sufficient. The applicant would have to submit something to Justin Brown to evaluate.

Jon Berry didn't think they could do this without a variance. The rules in this case have been applied quite strictly in the past, and he didn't think there was any way to loosen them now.

Jay Meyer didn't think this met the standards of the ordinance; it is within the setbacks and is closer to the lot line. He felt there were three options; extend a covering so that the garage is connected, narrow it down so it stays out of the setback, or make it a larger and connect it to the garage.

Stan Given agreed that it doesn't meet the ordinance.

Mr. King wondered if he can expand the existing portico and meet the ordinance. It is at the back door, towards the garage. Dennis Keeler said he could extend it as long as he didn't come closer to the lot line.

Mr. King asked to table his application.

Jon Berry left the meeting.

E. 19 Burgess St, Goduti/Thomas Architects representing Burgess Properties LLC. - Requesting Conditional Use under Section 6.2 for additions U16-045, zoned RA.

Maggie Stanley of Goduti/Thomas Architects, representing the applicants, explained that most of the house is within the 100 foot waterfront setback, but not all of it. Also, it is too close to the front setback. They want to do three small additions to the home: the first is a small bump out on the second floor to add a bedroom upstairs and provide covering to the front deck. It is set back 10 feet from the property line. Their second proposal is to add a bay window to the second floor, which is within the 100 foot setback of the water front. It sticks three feet out from the building. They spoke with the neighbors about any impact to water views in the area; there will be no impact to water views. The square footage and volume calculations have been submitted; they are well within the 30% limit allowed. This only adds 21 sf and 189 cubic feet of volume, which is less than 1% of the existing home. The third proposal is to convert the small roof on the first floor to a deck for the upstairs. This roof is 91 sf and they would add a railing to what is already there; this would not add any volume, but would add the square footage. They have spoken with the abutting property owners, who have expressed approval of the project.

Jay Meyer said the proposed bump out on the front is right up to the 10 foot line; that is a very tight tolerance. He cautioned her that overhangs would be included. Ms. Stanley said they do have a site plan survey and would confirm the overhangs.

Jay Meyer asked if the proposed deck is there now. Ms. Stanley said no; currently it is a shallow-pitched roof. They would level that and put a railing on it.

Jay Meyer asked where that is on the plot plan; Ms. Stanley said it is on the corner near the existing deck, over the kitchen.

Jay Meyer asked if that is all within the existing footprint. Ms. Stanley said it is.

Roland Beaudoin thought the house was at an angle to the property line; he wondered from where the 10 feet was being measured.

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Ms. Stanley said she was measuring the 10 feet from the point most perpendicular to that corner of the building. Since the property line angles away from that, the corner further out would be greater than 10 feet away.

Public comment period opened; no public comment.

Stan Given moved to approve the application; Jay Meyer seconded.

Roland Beaudoin was appointed as a voting member for the application.

Willie Audet said two letters were sent to the Code Office regarding this application. Richard Traynor of Burgess St. and Odette Galli of Ayers Court both were in favor of the application.

Motion carried 5-0.

F. 390 US RT 1, Unit 6, Mei-Hui Huang- Requesting Conditional Use under Section 8.3 for a Change of Use to allow an Education Center/School. Parcel U62-003-026, zoned BP.

Ms. Huang explained that they want to start a European Language center.

Wendy Paradis was appointed as a voting member for the application.

Wendy Paradis pointed out that there was no floor plan submitted with the application.

Justin Brown asked if this was going to be an open-concept floor plan. Ms. Huang said that was correct; it will be a group learning setting.

Justin Brown said he would get a floor plan with any building permit application if there was any work being done inside.

Roland Beaudoin asked what languages they were going to teach.

Ms. Huang said they are going to start with 6 languages - German, French, Mandarin, English, Spanish and Japanese.

Roland Beaudoin asked if the building has plenty of parking; Justin Brown said that was correct.

Roland Beaudoin asked if there was a limit to the number of people than can be in the facility. Justin Brown said the limit would be based on public safety and that calculation would be relatively simple.

Dennis Keeler asked who was in the space before. Justin Brown thought it might have been another school, but he didn't think that one came before the Board.

Willie Audet asked if this was the same building in which the approved a chemist recently; Justin Brown said that was correct.

Dennis Keeler asked why this was before the Board; Justin Brown explained that schools fall under the conditional use category for this district.

Stan Given wondered how many students they are expecting. Ms. Huang said the maximum for each class would be 10.

Stan Given wondered if there were two exits from that space; Justin Brown said there is only one, but that isn't an issue due to its size.

Jay Meyer thought this was the same building as the Ocean Community Church; Justin Brown said that was correct, but they have since moved.

Stan Given asked how the life safety issues would be reviewed; Justin Brown said it would likely being a joint project with him and the Fire Chief both reviewing it.

Stan Given said if there were any alterations inside, it would require a building permit. Justin Brown said that was correct.

Stan Given asked if they were planning for any equipment inside: computers, etc. Ms. Huang said yes, there would be some computers for online learning.

Dennis Keeler wondered if these units go completely through the building; Justin Brown said no, the first section is two-story but the second section is one-story, garage bay and office unit.

Dennis Keeler said there is only the one door to this unit. Justin Brown said that is correct.

Public comment period opened; no public comment.

Dennis Keeler moved to approve the application; Wendy Paradis seconded.

Dennis Keeler assumed that the life safety issues would be reviewed. He was concerned with 10 kids and instructors in a unit with only one door. Justin Brown said he will, and also said he was more comfortable with it having the open floor concept.

Motion carried 5-0.

2. Approval of minutes from the previous hearing.

The April 2013 minutes were approved 4-0 (Meyer, Beaudoin abstained)

The June 2013 minutes were approved 3-0 (Meyer, Keeler abstained)

The July 2013 minutes were approved 3-0 (Meyer, Keeler abstained)

Roland Beaudoin made a correction to the August minutes.

The August 2013 minutes were approved as amended 4-0 (Keeler abstained)

The September 2013 minutes were approved 4-0 (Meyer abstained)

5. Administrative discussion regarding a Board meeting in December.

The Board announced they will not hold a meeting in December. They rescheduled the January meeting to January 14. The application deadline for that meeting will be 4 weeks prior to the meeting.

Stan Given gave an update on the work of the Ad-hoc Zoning Committee.

The meeting was adjourned at 8:04 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary