

**FALMOUTH PLANNING BOARD  
TUESDAY, DECEMBER 1, 2016, 6:30 P.M.  
MINUTES**

**MEMBERS PRESENT:** J. Chace (Chair); T. McKeon (Vice-Chair); B. Kaplan; C. Hickey  
**MEMBERS ABSENT:** J. Cole; R. Israel

**STAFF PRESENT:** Ethan Croce, Senior Planner; Lisa Sangillo, Recording Secretary

Chair Chace brought the meeting to order at 6:31 p.m. and asked for a roll call. He informed Mr. Kaplan that he would be a voting member.

**MINUTES:**

**Item 1 Approval of minutes from the November 1, 2016 Planning Board meeting.**

Mr. McKeon moved that the November 1, 2016 minutes be approved as written. Mr. Kaplan seconded. Motion passed 4-0.

**ADMINISTRATIVE ACTIONS:**

Chair Chace described the following items for the benefit of the Board and the Public. Items 3 and 5 were removed from the Administrative Action agenda and placed on the regular agenda.

**Item 2 Avesta Blackstone, LP** – 21 Squidere Lane – Request for Site Plan and Subdivision Re-Approval for 19 proposed units of senior apartments. Tax Sheet 010, Map-lot U24-023-B, Zoned RA, AVRC.

**Item 3 Michael Heath** – 72 Foreside Road – Request for Private Way Amendment for Vintage Way. Map-lot U11-021/021-001. Zoned RA, RCZO. **(Moved to regular agenda items.)**

**Item 4 Richard Akerson** – 8 Kimball Way – Request for Private Way Amendment to merge the two Akerson parcels into one. Map-lot R06-063-002/063-003, Zoned FF, RT100CO, RCZO.

**Item 5 Fox Hall Road Homeowners Association** – Fox Hall Road – Request for Subdivision Amendment for repairs to a road culvert crossing. Map-lot U44-001-005, Zoned VMU, Route 100 Corridor Overlay. **(Moved to regular agenda items.)**

Mr. McKeon motioned to approve Items 2 and 4. Mr. Kaplan seconded. Motion passed 4-0.

**PUBLIC HEARINGS:**

**Item 6 A zoning amendment to permit subdivision identification signs in the Tidewater Master Plan District.**

The Tidewater Homeowners Association petitioned the Town to allow for subdivision identification signs to be permitted in the Tidewater Master Planned Development District. The proposed ordinance amendments were drafted which would also: allow the signs to be placed within the right of way of a private street; allow for no side setbacks for the signs except where the property line is adjacent to land

outside the subdivision; and require signs in the Tidewater Master Planned Development District to conform to the Tidewater Village Design Guidelines. After the introduction of this amendment, it was discovered that the newly created RD and HL Districts need to be added to the list of districts where subdivision identification signs are allowed.

**PUBLIC COMMENT:** Bob Isler, 22 Farm Gate Road, gave some background as to how this amendment came about.

**PUBLIC COMMENT CLOSED.**

Chair Chace asked if any signage would need approval from the Planning Board. Mr. Croce stated it may need approval depending on the ordinance language. Mr. Isler stated that with the approval of the amendment, they just needed to fill out the application, turn it in and it would be an administrative approval.

Mr. McKeon motioned to approve the proposed ordinance amendment as written. Mr. Kaplan seconded. Motion passed 4-0.

**REGULAR AGENDA ITEMS:**

**Item 3 Michael Heath** – 72 Foreside Road – Request for Private Way Amendment for Vintage Way. Map-lot U11-021/021-001. Zoned RA, RCZO.

The applicant is applying for a private way amendment to the Vintage Way private way approval. Mr. Croce provided the Board with an overview of the application.

**PUBLIC COMMENT:** Mark Donahue, Foreside Associates, LLC, owns the multi-unit development complex adjacent to this site and gave a brief history of past permitting for the Vintage Way lots and his perceived issue with drainage. He wanted to ensure that the conditions from the previous Vintage Way approvals would be carried over with respect to the drainage issues.

Mr. McKeon asked Mr. Donahue to elaborate on the drainage issues. He then asked Staff about the conditions for the previous approvals and cost sharing. Staff explained previous conditions with respect to a proposed improved drainage ditch along the joint property line in question. Staff stated that the stormwater plans are identical to the previous plan submitted. Staff also elaborated on the status of the conditions of approval for the previous amendment noting that the project approval was never acted on.

Derek Novak is the owner of Lot A, which abuts Lot C and the Foreside Associates LLC property. He supports the project but asks for a couple of changes. He pointed out that the easement given to Michael Heath from Dana Dresser only covers a portion of the property. He asked that a line be drawn on the plan to reflect the limited extent of Lot C's access easement over Vintage Way. He also asked that Lots C & E be combined.

**PUBLIC COMMENTS CLOSED.**

Chair Chace confirmed that the previous COAs in question will be carried forward with this approval. He addressed the merging of Lots E & C, and did not think this lot merger falls within the Planning Board's authority to require.

The Board discussed the easement as it relates to Lot C and clarified the lot divisions to-date. Mr. McKeon asked for clarification of where Lot E came from. Staff explained the history behind the lot divisions and the creation of Lot E, currently an unbuildable parcel.

Mr. Novak stated that Mr. Heath has agreed to combine the lots and show the access easement limit on the plan. Staff stated that the easement line limitation, to the extent that it is defined legally, could be added to the plans as a condition of approval since this is, theoretically, a non-subjective issue and just represents factual information. As far as the combination of Lots C & E, staff doesn't believe the Board can force this to happen, but it can happen at a later date if in fact the applicant is amenable. Staff responded to Mr. McKeon that merging Lots C&E wouldn't necessarily need a Private Way amendment. Staff described the proposed conditions for this application which included certain conditions from the 2012 Vintage Way approval; coordinating the swale/ditch improvements with the N/F abutting Foreside Associates LLC property owner prior to commencing that site work. Also included was the requirement that the access and utility easement over Lot E must be recorded at the Registry of Deeds prior to issuance of building permits.

Mr. Hickey confirmed with Staff that the prior approval was never acted on. Staff responded that this was correct.

Mr. McKeon moved to approve the application subject to conditions spelled out in the staff agenda notes and described by staff. Mr. Kaplan seconded. Motion passed 4-0.

**Item 5 Fox Hall Road Homeowners Association** – Fox Hall Road – Request for Subdivision Amendment for repairs to a road culvert crossing. Map-lot U44-001-005, Zoned VMU, Route 100 Corridor Overlay.

Mr. Croce gave an overview of the zoning context for the Board. Mr. Daniel Diffin, Sevee and Mahar Engineers, stated that he was representing the HOA and was open to questions from the Board.

Mr. Hickey asked Mr. Diffin to explain the "Smart Stream" plan detail and the culvert being installed. Mr. Diffin stated the reference to Stream Smart was left over from a previous submittal and on the plan in error. They are replacing the 3 hung pipes with one large pipe that will be embedded a couple inches below the stream bed. Mr. Hickey asked if they considered installing an arch culvert. Mr. Diffin stated it was cost prohibitive to install this type of culvert for an existing roadway. Mr. Hickey asked for the difference in the two different types of culverts that could be used in the repairs. Mr. Hickey asked what the cover was over the proposed culvert. Mr. Diffin stated there would be about 10 feet of fill over the top of it. Mr. Hickey asked that the applicant look at embedding the culvert further, but did not wish to make it a condition of approval. Mr. Diffin stated they would look into it.

**PUBLIC COMMENT:** No public comments.

Proposed conditions include obtaining a Flood Hazard Development Permit prior to commencement of site work from the Code Enforcement Officer, posting a performance guarantee for erosion control measures and site work, and the ordinance required inspection fee.

Mr. McKeon motioned to approve the application as presented subject to conditions identified by Staff. Mr. Kaplan seconded. Motion passed 4-0.

**Item 7 OceanView Retirement Community, LP** – 20 Blueberry Lane – Request for Final Subdivision and Site Plan Approval for a 14-unit cottage expansion. Map-lot U27-013-A/A1/A2/B. Zoned RB, RCOD, OVRC.

Mr. Croce gave an overview of the ordinance requirements for the Board. Chris Wasileski gave an overview of the project for the Board.

Sidewalk easement is with the attorney and Town Manager for review and will be signed off on soon. He stated they met with the neighbor at 165 Middle Road, Mr. DiPietro, and discussed drainage issues. They also agreed to shift an emergency access gate on the fire lane closer to Middle Road for Mr. DiPietro as well as additional landscaping.

Rick Licht addressed the comments the Board outlined from the preliminary submittal. Public Works asked that they take out some of the curves in the sidewalk to facilitate maintenance. Two units (42 & 43) were originally graded in the conservation easement and now have been pulled out of that conservation easement per staff's suggestion to comply with the terms of the easement. The emergency access road has a straight connection to the roadway.

Mr. Licht discussed the buffering along 174, 172, and 170 Middle Roads. He stated they will be infilling with vegetation and trees where the lawns are now. He went over sketches on how the site would look with vegetation.

Mr. Wasileski stated the backs of the homes will have sort of a "front of the house" façade on the Middle Road side of the homes.

Mr. Licht stated that they have asked for Weathervane Way to be a dead end road connected by a walking path.

Mr. Licht then stated that they are hoping that the Board will find that the project is consistent with the Master Plan and will also grant the 4 waivers that have been requested:

1. Appendix 7-2 Site Analysis Plan
2. Appendix 7-3.B.11 – Soils Report
3. Appendix 7-5.E.1 – Max. Road Grade at Intersections
4. Appendix 7-5.E.4 – Street Width

**PUBLIC COMMENTS: No comments.**

Chair Chace outlined the steps the Board will be taking on this application. He then stated, as a motion, that the project is consistent with the Master Plan. Mr. McKeon seconded. Motion passed 4-0.

The Board then discussed the waiver requests. Mr. Croce stated that he felt Waiver 1 was not required since the information was provided at sketch plan review.

Mr. Licht explained Waiver 3, Road Grades, for the Board. Mr. Hickey stated his only problem would be with the slipperiness of that road during the winter. Mr. Wasileski agreed with Mr. Hickey but was confident in their maintenance staff. Mr. Hickey then asked if they looked at a more sweeping curve instead of a stop at this location. Mr. Licht said they did, but found it challenging. Mr. Wasileski stated they would put a stop bar and sign at the intersection.

Mr. McKeon motioned to approve the waivers 2, 3, and 4 as presented. Mr. Kaplan seconded. Motion passed 4-0.

Chair Chace asked for feedback from the Board. Mr. Hickey asked whether a legal review was completed on the Conservation Easement. Mr. Wasileski stated that their attorney had reviewed the easement and was comfortable that their proposal does not violate the terms of the easement. Staff stated that they had read through the easement and was satisfied that the terms of the easement were being conformed to now that the applicant has moved the building grading out of the easement area.

Chair Chace discussed the performance guarantee and the applicant's request to tie posting a performance guarantee to issuance of COs. He felt that this was an administrative function that the Board should not get involved with. Mr. Hickey asked if the Town Manager negotiated with the applicant regarding the performance guarantee. Mr. Croce stated he had not but that he rarely would. Mr. Hickey asked that staff check in with the Town Manager regarding whether or not he feels the performance guarantee is appropriate. Mr. Croce stated he would run it by him.

Mr. Croce distributed the proposed conditions of approval to the Board and applicant and read them into the record.

Mr. Wasileski asked for clarification on condition 4.e. as it relates to 911 addressing. He then asked if the Board wanted the conditions met before they pulled a demo permit. Chair Chace stated he wanted to see Item 4.B in effect before demolition of the existing family structures as well as erosion control measures, and tree protection measures. Mr. Wasileski stated they were comfortable with this condition. They are keeping the Middle Road driveways temporarily for construction access then they will be removed.

A new Condition of Approval number five will read as follows: "Prior to demolition of the three single family dwellings on the property, erosion control measures, tree protection measures, and snow fence or equivalent measures marking limit of clearing lines shall be installed to the satisfaction of the Town and remain in place through construction/demolition activities."

Mr. McKeon motioned for final approval of application as presented subject to prepared conditions of approval. Mr. Kaplan seconded. Motion passed 4-0.

**BOARD TOOK A 5 MINUTE RECESS.**

**RE-ADJOURNED AT 8:15.**

**Item 8 Kathryn Ellis** – Mast Road – Request for Private Way Approval for a new private way serving one country estate lot. Map-lot R09-039-C & R09-041 (portion of), Zoned FF, RCZO, HLCO.

Mr. Croce outlined the zoning context for the Board.

Amy Bell-Segal, TJD&A, gave an overview of the application for the Board. She stated they have an affidavit stating that David Hawks, owner of the parent parcel, had not subdivided the lot within the last five years. Ms. Segal stated that the safest location for the driveway, after lots of data collection, was the location they had originally chosen.

She then went over the 4 step process. She went over the factors that went into determining where to place the house while minimizing the effect on the conservation areas and wetlands. She stated that the comments from the Town Engineer are acceptable and they will address all of those. The comment of labeling the perimeter buffer as no-cut was acceptable, as was labeling the rear 10 acres as no cut.

Mr. Hickey asked if the parcel is in Tree Growth. Ms. Bell-Segal stated the parcel is in tree growth. Mr. McKeon asked about maintenance/protection of the wetlands. Mr. McKeon asked if they could be delineated in the field. Ms. Bell-Segal stated they could and agreed to do so. It was recommended that the driveway be moved to the middle of the strip of land and out of the perimeter buffers. They will do this as a condition of approval. She then confirmed that there were no structures in the 20 foot setback from the new private way proposed on the abutter's property.

**PUBLIC COMMENT: No public present.**

Mr. McKeon asked about the hammerhead at the end of the 50 foot private way and what the purpose was. Ms. Bell-Segal stated it was required as part of the private way ordinance. Mr. Croce confirmed the requirement of a hammerhead at the end of a private way but that the Board may be able to argue that the applicant has satisfied that requirement with the hammerhead proposed up the road near the building envelope, which is arguably the more important location to have one. The Board members stated direction from Public Safety would be helpful and that they would be comfortable allowing the hammerhead closest to Mast Road be removed with Public Safety's approval.

Chair Chace asked if they got any sense if there were any primary conservation areas on the back 10 acres of land. Ms. Bell-Segal stated she walked it and didn't get any sense of any issues.

Staff distributed proposed conditions of approval to the Board and applicants. Chair Chace asked about the 100' setback from the wetlands and if it was going to be codified as part of the application. Staff stated that the applicant had previously agreed to amend the private way plan to show this 100 foot

setback. Mr. McKeon confirmed that Ms. Bell-Segal was amenable to addressing all conditions of approval including the outstanding comments from the Town Engineer. She stated she was.

Staff read a new condition of approval 6 regarding removal of the hammerhead closest to Mast Road subject to agreement from EMS and Fire Departments, and read a new condition of approval 5.c regarding permanent visible markers in the field to allow identification of no-cut buffers with respect to the vernal pools/high value wetland and marking on the plans as to no cut buffers.

Mr. McKeon motioned approve the application with conditions of approval as presented. Mr. Kaplan. Motion passed 4-0.

**OTHER BUSINESS:**

Chair Chace recognized Mr. Hickey and his time on the Board as well as Mr. Israel, who was absent this evening, and thanked them for their service.

**ADJOURNED AT 8:48 PM.**

**Recording Secretary,  
Lisa Sangillo**