

**FALMOUTH PLANNING BOARD DRAFT MEETING MINUTES
TUESDAY, JANUARY 6, 2015, 6:30 P.M.
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

MEMBERS PRESENT: Jay Chace (Chair), William Benzing, Christopher Hickey, Rudy Israel, Thomas McKeon.

MEMBERS ABSENT: None

STAFF PRESENT: Ethan Croce, Senior Planner; Lisa Sangillo, Meeting Recorder

The meeting was called to order at 6:33 pm.

Mr. Chace congratulated Mr. McKeon on moving from an Alternate Planning Board member to full Planning Board member.

Item 1 Approval of minutes from the December 2, 2014 Planning Board meeting. Mr. Israel moved to approve minutes. Mr. McKeon seconded the motion. Passed 4-0.

AGENDA ITEMS

Item 2 Risbara Bros. Construction Co. Inc. – Hardy Road - Request for Pre-application sketch plan review for the proposed 7 lot Grove Forel Baek Subdivision. Tax Sheet 451; Map-lot R07-100. Zoned F, RCZO, and SP (Shoreland).

Mr. Croce brought the Board and public up to date on the status of the request. The applicant will also be updating the Board on the changes made to their application.

Ms. St. Clair updated the Board on revisions to the packet. They originally proposed one exempt lot and six subdivision lots. They have now moved the proposed exempt lot closer to Blackstrap Road and added an additional lot to the former location of the exempt lot. The current proposal is for 7 subdivision lots and one exempt lot. They have modified their plan taking into account their site walk in November and the comments from the Planning Board at the November 4th meeting.

There was no major change in the four step process and the configuration of the open spaces. She explained that the crypt that was referenced in the deeds and the Board reviewed that feature on the site walk. There is to be no change to the crypt. It will be left as is and maintained as part of the open space area. The two metal buildings on site have been opened and are empty.

She went on to explain the water/potable water issue. They have drilled a test well on the site to evaluate for potable water and water supply. They have retained a hydrogeologist to analyze the results of that test and to perform a nitrate impact evaluation related to the subsurface disposal systems associated with the subdivision.

After further evaluation and testing, it was determined that each lot will have its own septic so they are no longer proposing any shared septic systems or septic easements.

There was a vernal pool study done earlier in the year, and a letter will be submitted stating no pools were found on the property. They would like to follow up on the waiver request for the limitation of number of homes on a dead end street. The Police Chief indicated that he was OK with the waiver request, but the Fire Chief expressed an interest in having a street connection to Westbrook. The applicant's attorney has offered an opinion that this ordinance provision does not apply to this development and that no waiver is required.

With respect to the tree survey on the property, Ms. St. Clair was looking for feedback on whether or not it needed to be for the entire property or just within the areas of the lots proposed to be disturbed. Public Works has requested that a couple of trees, which are very close to the road, be taken down.

A traffic study will be done to see where driveways should be located taking into account sight distance and taking into account trees which will be recommended to be removed by their traffic engineer.

Mr. Chace asked if anyone on the Board had any clarifying questions. Mr. Israel asked for clarification on what was happening on Lot 2 as far as number of buildings. Ms. St. Clair stated that the maps showed two possible building locations, but that only one home would be constructed on the lot and that the southerly location was currently the preferred home location.

Public Comments:

Carol Katz of 69 Hardy Road – Ms. Katz had questions regarding the request for a variance on lot size. She brought up the administrative rewrite/Encode project. She felt it should be delayed until the administrative rewrite project is completed. She feels there are a lot of children on that road and feels all the driveways could have an impact on family life.

Bob Gaudreau of 55 Hardy Road – Mr. Gaudreau had questions about moving the exempt lot around given the limitations of the land. He believes the wetland evaluation near Lot 6 is not accurate. Mr. Gaudreau went from the frontage stake and feels there is a wetland between lots 5 and 6. There is water leaking out of the cut related to the old gravel pit. This wetland would diminish lot 5's building envelope down to nothing. There is running water coming out of the bank. He is asking there be a significant review on this area. He feels the pond will end up on their property instead of his. He mentioned Appendix 9 – 1.B that states common open space shall include lands located along existing public streets in order to preserve existing landscape character....” is supposed to be left unchanged. All of the old growth trees along the road are being taken down according to the applicant. He is asking that the Board look at this issue closely as well as the stump dump, the existing pond dam, and the deer yards. He thinks Risbara Bros. did a fine job developing the newer house lot up the road except that drill fines were on the opposite side of the silt fence. He feels there should be a bond on the erosion sediment control plan as well as a third party inspector.

Mary Dyer – 65 Hardy Road – Ms. Dyer said she owns part of the other pond on the other side of Hardy Road that connects to Mr. Gaudreau's pond. She would like to see

some water management people come in to determine how the project will affect the ponds. She is concerned about the 8 more homes that are going to be added to the current 34 existing homes on a dead end road. It's an old neighborhood and some houses have been there for 100 years. She feels this subdivision will totally change the character of the neighborhood. She realizes that Risbara is trying hard to do well, but feels this will affect what the road looks like. She will be submitted a letter of concern tomorrow.

Donna Wormell – Hardy Road – She was born on Hardy Road and has lived there all her life. She likes the wildlife because of the ponds: otters, raccoons, fox, coyotes, deer, and moose. She's worried as to what all the development will do to the wildlife.

Public Comments closed.

Mr. Chace asked Staff to clarify the zoning context and the variance request. Mr. Croce explained that the Town adopted Conservation Zoning in 2005 that allows the Planning Board, by right and not by variance, to reduce lot dimensions down to as low as 20,000 s.f. to preserve common open space and protect a site's natural resource areas. The conservation zoning program is density neutral.

Mr. Chace clarified that the ordinance rewrite was only an administrative rewrite of the current rules, not an initiative that will change land use policy. The Ad-Hoc Zoning Committee has been tasked with overseeing the re-write of the codes. He explained to the Board and the public that it was a reorganization of the code.

Mr. Chace asked Staff about the review of the exempt lot. He stated it seems odd that they could pick whatever 2 acre lot they wish to carve out. Staff stated that they could perform one lot division or convey out one house lot every five years without being subject to subdivision review. They are allowed to do this. That applicant has stated that the lot will be conveyed out prior to final subdivision approval. Mr. Chace asked if it's something that should be done before a formal preliminary application is filed. Mr. Croce stated he did not think so, but that he would raise the question with the Town attorney for a definitive answer.

Mr. McKeon confirmed with Ms. St. Clair that with respect to the water, they were waiting for the hydrogeologist findings as to potable water and also the results of a ground water study to determine the levels of nitrate in the water. All these results will be provided to the Planning Board in letter form.

Mr. McKeon asked about the concerns about ponds across the street and if there is a risk to the ponds. He also asked if this was something they've looked at. Ms. St. Clair stated that they will follow up on this matter with the hydrogeologist regarding the risk to the ponds along with the potable water and nitrate studies. In other subdivisions, they have found that the typical groundwater used by a home does not pose a risk to the groundwater. Mr. McKeon was concerned about the potential for the open space to be managed properly by a homeowners association given the complexity of the land, including the crypt, the old sheds, and the pond dam. He suggests that they figure out whether or not the Town is going to take the land sooner rather than later. He's

interested in seeing how the stewardship of this land is going to be set up legally and how a small Homeowner's Association would be able to do that.

Mr. McKeon also asked about the wildlife areas and if there had been any studies done on the parcel. The applicant did not find any formal need for protection of wildlife in that area. He asked Staff what is typically done on wildlife areas like this. Staff mentioned that applicants would typically use available published data to evaluate the presence of site features such as deer yards and the like. It is important to look at each development on a case by case basis. The 4-step design process lays out priorities for determining which site features should be protected and wildlife habitat is Priority 8. While the 4-step process outlines priorities, the Planning Board has the authority to move priorities around depending on the unique circumstances of any given site.

Mr. McKeon stated that wildlife habitat is reduced anytime a development is constructed. His only thought is that he likes the development but is concerned with the stewardship of the property and whether or not a small HOA can handle it. He wants to know if there is a threat to the ponds, and also, he's concerned about breaking the road through to Westbrook; he would lean towards supporting a waiver.

Mr. Benzing is concerned also about the risk to the ponds. He is happy that each lot has its own septic, but is also concerned with the nitrate levels. As far as the road is concerned, it would be nice to open up to Westbrook, but may be more of a problem for the abutters on Hardy Road. He likes that the houses are all clustered along the road. The benefit of this is that the majority of the parcel is being undisturbed.

Ms. St. Clair stated that fire suppression systems will be included in the homes and will be noted on the plan.

Mr. McKeon questioned why they added another house lot.

Ms. St. Clair stated that it was noted by a Board member at the prior meeting that there was additional un-used density, so they took another look at this and added another lot.

Mr. McKeon stated that that he was not looking to have another house lot added.

Mr. Hickey feels it is inappropriate for the Planning Board to extend Hardy Road since it was allegedly discontinued by the Town. He feels that the extension of the road would be more appropriately be brought to the Town Council. He supports a waiver. He then asked Ms. St. Clair to step him through a site walk narrative starting at the pond as he was unable to attend the site walk in November.

Ms. St. Clair stated that the Hardy Road grade is on average 6'-8' above the pond looking quickly at the topography on the drawing. The road is relatively flat in that section. A section of the parcel closer to the Town owned land on the westerly side of the site is a section slightly above the road. Heading easterly on Hardy Road, the site begins to drop off. Public Works has issues with an icing problem in that area. Discussions have been held with Public Works to include grading with a possibility of a ditch to relieve some icing in that area.

The hydrogeological study is going to look at water quality and nitrite plumes. Mr. Hickey asked if the study would include any underwater aquifer mapping and if there would be any commentary provided to show hazards due to work.

Ms. St. Clair stated part of her job is to find out those answers.

Rocky Risbara stated that Lot 5 appeared to be on the same elevation as the pond. He feels that it may be surface water runoff there. He's not sure it's coming from the pond. He also shared some well information with the Board. They have 8 gallons a minute of water. They don't know about quality yet. They drove a well on Lot 1. They are awaiting test results.

Mr. Hickey stated he feels this is a good arrangement, and feels that the characteristic of subdivision is similar to what is currently on the road today. From a resource impact view, this is very minimal, which is why the applicant didn't have to go to DEP. He also feels they are not maximizing the number of lots they could have and likes to see a developer creating a development in a compact and consistent manner while preserving a large portion.

Mr. Israel had no comments.

Mr. Chace had a couple questions regarding Lot 7, appreciating the reconfiguration of the lot. In the first sketch plan review, it was mentioned that the utility corridor is frequently traveled. He questioned if they had any thoughts on keeping the gas line off that lot.

Ms. St. Clair stated they had discussed incorporating the corridor within the house lot and having the connectivity with Hardy Road not be via that section of the utility corridor but on the easterly side of Lot 7. The applicant would like to keep that as part of Lot 7.

Mr. Risbara's concern is a reduced building envelope on that lot if the lot did not include the utility corridor. If they could have no setback from the corridor, then they would reconsider it.

Mr. Croce stated that Conservation Zoning allows the Board to reduce the rear lot line setback down to zero, so if the Board was amenable to that reduction then the applicant's concern about a reduced building envelope would be addressed.

Mr. Risbara stated they would take another look at that if there would be no setback implications.

Mr. Chace also brought up the tree survey. He doesn't envision the need to do a full analysis of the site, but he would like to see an analysis of the trees along the road.

Mr. Risbara stated they would do a tree survey within the building envelopes. The setback along Hardy Road is where they will be able to do the survey.

Mr. Chace stated that with regards to the dead end waiver, he differs from his fellow Board members. He thinks there is value in exploring the potential for creating at least a limited connection for emergency vehicles only. It would not change the characteristics of the area in that event and he would like to see this explored by the applicant.

Mr. Risbara stated that they have done deed research with respect to the road length issue. The town has rights at the end of Hardy Road, but he doesn't think the connection can be easily done.

Mr. Chace stated if it is viable option, it should be explored.

No further comments or questions.

Item 3 Election of Interim Planning Board Vice-Chair

Mr. Chace asked if there were any motions for a new vice chair.

Mr. Benzing motioned that he be voted vice chair. Mr. Israel seconded. The motion passed 5-0.

Meeting adjourned at 7:50.

Respectfully submitted,

Lisa Sangillo
Recording Secretary