

**FALMOUTH PLANNING BOARD DRAFT MEETING MINUTES
TUESDAY, AUGUST 5, 2014, 6:30 P.M.
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

MEMBERS PRESENT: Jay Chace (Chair), Bernard Pender (Vice Chair), Rudy Israel, Thomas McKeon (alternate)

MEMBERS ABSENT: William Benzing, Christopher Hickey

STAFF PRESENT: Ethan Croce, Senior Planner

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

Tom McKeon was appointed as a voting member.

1. Approval of minutes from the July 1, 2014 Planning Board meeting.

Item was tabled to the next meeting.

Administrative Action Items

2. Harold Payson – 417 US Route 1 – Request for approval of a new, 103 square foot freestanding multi-tenant sign. Tax Sheet 81; Map-lot U61-021. Zoned BP and SP (Shoreland).

3. Ridgewood Associates, LLC – Falmouth Road – Request for subdivision & site plan re-approval of Ridgewood Estates. Tax Sheet 310; Map-lot R04-026. Zoned OSRD.

Tom McKeon moved to approve the administrative items; Bernie Pender seconded. Motion carried 4-0.

Agenda Items

4. P. Strout, R. Gaudreau, L. & M. Wallace – Hardy Road – Request for sketch plan review of a 2-lot minor subdivision. Tax Sheet 440; Map-lot R07-098, -098-D, -098-E. Zoned Farm & Forest, RCZO and SP (Shoreland).

Ethan Croce reviewed the applicable ordinance provisions for the application.

Tom McKeon disclosed that he served as an attorney in an action against Hardy Pond Construction and asked Mr. Gaudreau if he objected to his presence on the board. Mr. Gaudreau said he had no objection.

Bob Gaudreau explained that he owned one lot, which is now owned by his daughter. They are trying to bring the lot up to current code, but are asking for a lot of waivers. He purchased the lot in 1991 and thought it was legally created. In 2008, they discovered that this lot hadn't been approved by the Town at the time it was sold. It is currently non-buildable; they are trying to make it a buildable lot.

Jay Chace was confused by the history of the lot divisions.

Mr. Gaudreau said the original Strout land was 46 acres. A portion was sold to Wallace after the approval of Meader Brook Way. State statute does not allow for another lot split within 5 years without subdivision approval. When he purchased the lot, Mr. Gaudreau's plan did not include a note that he had to return to the Planning Board for approval of any further lot divisions and he owned the land for 18 years without knowing he was not compliant. He applied for a building permit, but once construction started the CEO told them they had to stop. He asked Mr. Strout to bring the lot to the Board for approval, but that came to a halt in 2008. They hoped to come to the State's 20 year rule, which would allow them to build, but the Town intervened to block that 20 year rule. They went to mediation with Mr. Strout to allow this to move forward. Mr. Strout will retain some of the land he owns and give up some land for natural resource reasons.

Jay Chace said the Wallace split was the first split, and it was legal. The subsequent split, owned by Mr. Gaudreau, occurred 3-4 years after Wallace, but not after the allowed 5 year span. The lot split was not legal at the time, so they now have to evaluate it under current zoning and subdivision standards. Mr. Gaudreau said that was correct.

Tom McKeon asked when Meader Brook Road was built.

Mr. Gaudreau said it has been there a long time; it was originally a dirt path accessing back land. Part of it was built during the construction of the turnpike.

Tom McKeon asked which lot is in question; Mr. Gaudreau explained that it is the 3 acre lot behind his current residence.

At Tom McKeon's question, Mr. Gaudreau explained that the subdivision would include the 3 acre lot, the Wallace lot, and the lot retained by Mr. Strout.

Ethan Croce clarified that the lot where Mr. Gaudreau's residence is located is not part of the proposed subdivision.

Public comment period opened; no public comment.

Jay Chace wondered what will happen to the remaining acreage belonging to Mr. Strout, what the future development potential is, and what the plans are for the future of this lot

Mr. Gaudreau didn't know, and didn't think Mr. Strout knew. He wanted to focus on getting his lot approved.

Tom McKeon wondered about who would own the common open space. Mr. Gaudreau said it would be reserved, and not buildable. It is in a natural resource zone and has other limits that prevent it from being buildable. To address Jay Chace's concern, he said most of Mr. Strout's parcel would fall under conservation and would not be developable. He said any further changes to the lot would have to come back to the Board anyway.

Ethan Croce pointed out that one of the requirements is a conceptual long-range development plan. When that plan is produced, it might address some of the concerns about future development of the parcel. He pointed out that two paper streets will be required for this project if the Board grants the waiver on the dead end street length, so the location of those might also help to define future development.

The Board discussed the requested waivers on submittal requirements. They did not have any concerns with those waivers.

Tom McKeon wanted to know how the common area was going to be deeded, if there would be a maintenance plan and how it would be used.

5. Portland North Partners, LLC – 60 Gray Road – Request for a site plan amendment for proposed changes to the site's vehicular circulation. Tax Sheet 451; Map-lot R05-045-B. Zoned MUC and Route 100 corridor overlay.

Ethan Croce discussed the applicable ordinance provisions for the site.

Tom Greer of Pinkham & Greer discussed the site. The existing site plan and subdivision is located at the corner of the Turnpike exit and Route 100. There are three buildings on the site. They want to install a new, 16 foot one-way driveway at the Route 100 side of the lot, off the private drive that provides access to the lot. Their goal is to do a small project to attract new tenants to rent the buildings, and then come back to the Board for full site plan review at that point. He didn't agree with staff's opinion that they needed to comply with the full ordinance standards for the site plan; he felt they only had to comply with those standards that apply to the portions of the project that they are changing. The buildings are in

desperate need of upgrading. He explained that a corner of the lot was taken by MDOT by eminent domain. Town staff's position is that it is part of the right of way but his opinion is that it is a separate lot; this changes the front setbacks of this lot, thereby allowing the existing parking in that corner. They have requested a waiver on the separation distance between the current driveway and the new drive; he argued that this is not a high-volume site and pointed out that the proposed drive is one-way. They are requesting a waiver on some of the landscaping and on the requirement for CCSWD review and approval of the stormwater and erosion control, due to the small size of the project.

Rudy Israel asked about the distance between the two drives. In one location the requested reduction is listed as 10 feet, in another it is 13.5 feet.

Mr. Greer said he measured the distance between the edges of the two drives; staff have said they should be measured from the radius of the drives. He said the distance required in the ordinance is 75 feet in this situation.

Jay Chace asked about the side setback. Mr. Greer explained that the existing drive along the lot line that abuts the turnpike is within 10 feet of the sideline, and it has always been that way.

Jay Chace asked about the MDOT property. Ethan Croce said his understanding was that it belonged to the MTA. Mr. Greer said their previous plan stated that it was owned by the MTA; it has since been changed to MDOT.

Tom McKeon asked about the 14 angled parking spaces that were not previously approved. Mr. Greer said they come around between the two front buildings. Staff opinion is that they are at the front of the building and are not allowed; his opinion is that they are in the side yard and are allowed. They were originally approved as parallel parking spaces; the ones along the turnpike side were not shown on the approved plan.

Tom McKeon asked about pedestrian access. Mr. Greer said there are internal sidewalks all around the internal circle. The new clients want to focus the buildings out to Route 100 instead of internal to the site, since retail stores want more exposure to Route 100.

Bernie Pender asked about the front of the building. Mr. Greer explained that as originally designed, the face of the building on the internal circle was the front, and the drive around the building was the back. New potential tenants want the side of the building facing Route 100 to be the front, with better parking and visibility, and better access to that side. The drive between the two buildings is sloped and uncomfortable to drive on. Retail businesses don't want their customers to have to drive through there to access their stores.

Bernie Pender asked about the angled parking along the new front; Mr. Greer said they want to bring those spaces up to code, adding landscaping and making the whole area more attractive.

Bernie Pender asked about the loading dock area between the two front buildings. Mr. Greer said there is a grade difference between the two buildings that makes it awkward. They want to prevent people having to drive through there.

Bernie Pender asked about how they keep pedestrians out of that area; Mr. Greer said the new circulation would allow trucks to drop their load on the other side of the building.

Bernie Pender asked how the lot gets its road frontage; Mr. Greer said it gets frontage from the section along Route 100 other than the section belonging to DOT, and along the private access road. That road was part of the original subdivision approval. He felt the Board could determine that the frontage was along just that piece of Route 100, and not apply the front setbacks to the portion of the site that abuts the DOT parcel.

Tom McKeon spoke about pedestrian access; Mr. Greer said all pedestrian access as originally designed was internal to the site. He said the sidewalk leads around the internal circle, but there are no sidewalks along the private drive or on Route 100.

Public comment period opened.

Steve Baumann, a resident and property owner, is the commercial realtor for the property. Recently they had two tenants interested in taking the front of the building, but they lost them because they didn't have the front access. He argued that this is a gateway to Falmouth. They can't do a full site plan on the entire site because they couldn't afford it; they want to improve it one project at a time.

Mark Burns, a resident of Falmouth, didn't approve of the "all or nothing" approach of the ordinance. He felt they needed to look at this as how they improve the Town, whether it is in small chunks or large. He didn't think this was serving him as a resident. He urged the Board to take this in pieces and make sure this is a better gateway to Falmouth.

Dave Chase, abutter, owns a lot that shares the private drive and supported the application and encouraged the Board to consider any way that would let them to approve this project, either through waivers or by incrementally approving it.

Dave Libby, abutter, owns a lot that shares the private drive and felt this application should be approved. He encouraged the Board to approve it.

Public comment period closed.

Jay Chace pointed out that the Board is limited as to what they can approve; they must follow the ordinance as it is written by the legislative body. The ordinance allows them to work through elements of the review process with waiver requests as long as those requests are fully explained and they have a clear understanding of the site.

The Board discussed how best to proceed. Jay Chace felt there was information that he still needed: the dimensions of the drive, the parking spaces, and clarity on the ownership of the parcel along Route 100. The project changes the front of the building, and he felt they needed a better understanding of internal vehicular circulation and outside pedestrian access, for example. He felt it was more than just the 300 feet of driveway; they need to take a holistic view of the site. He thought there was a way to consider some level of waivers for the project, but wanted to see more about the site.

Tom McKeon pointed out that this is a relatively small project. He didn't question that the ordinance did require review, but he didn't want to be cumbersome to a small project.

The Board discussed the proposed waivers.

Waiver #1 – Section 9.14.a(5) – Driveway separation distance:

Jay Chace said one of the overlay design guidelines discusses internal traffic circulation. He wanted to see either a traffic engineer review or a peer review because they are reorienting the original approval of the site, and changing how pedestrians meet traffic.

Joe Cooper, applicant, pointed out that they are not asking for a change of use at this time. If they did have a retail tenant, they would have to come back for a change of use and would have to come to the Board at the time. At this time they are asking for a new drive to access existing tenants, with no increase in traffic.

Jay Chace felt there was a retail tenant in there already, so there would be no change of use and they wouldn't come back if another retail store went in. This is the Board's chance to evaluate the traffic.

Mr. Cooper didn't anticipate any increase in traffic or pedestrians. This is a small building and he felt concerns about traffic were not relevant. With regards to pedestrian access, there are no sidewalks that bring pedestrians to this property.

Jay Chace pointed out that the Town's bike/pedestrian plan identified this area as a high interest area; the Town wants to establish sidewalks in this area. He needs to see evidence in each of these areas that proves the need and suitability of the waiver.

Bernie Pender clarified that his concern with pedestrian traffic was for the internal pedestrians.

Tom McKeon said that, given the size of the project, he didn't see the need for a traffic study and would be in favor of the waiver. If it was a bigger project, he would support the addition of a sidewalk along Route 100.

Bernie Pender wanted a better graphic representation of the internal circulation with the new driveway.

The Board discussed their questions on internal circulation. Jay Chace asked if they had considered other options for the drive. Mr. Greer explained that the proposed drive is aligned with the entrance across the private drive. The existing service entrance is not able to accommodate tractor trailer trucks. Having the proposed drive as one-way avoids any stacking issues on the private drive.

Bernie Pender asked if the drive goes around the back buildings; Mr. Cooper said it does. It wraps around the back building and exits onto the private drive.

Mr. Greer said they would come back with a diagram showing the internal circulation on the site.

Waiver #2 – Section 9.27(a) – Landscape/Buffer in the Route 100 Corridor Overlay District:

Mr. Greer said they asked Tony Meunch, landscape architect, to draft a reasonable landscape plan for the proposed driveway. He discussed the proposed landscaping, which includes some trees to delineate the curve of the drive and the corners of the lot, but leave visibility for the buildings along Route 100. They do not meet the number of plants are outlined in the Route 100 standards. He said if the triangle is considered as part of the Route 100 corridor, they would have to add more trees. If it is not, they are close to the standards. Mr. Meunch's opinion was that the crabapples were overstory trees; Town staff said they are not.

Bernie Pender asked about the fencing proposed. Mr. Greer said there is some rail fencing on the landscape plan; it was added to create a vertical element that isn't just landscaping.

Ethan Croce said that staff has discussed with the Town Attorney the issue of requiring full site plan review once site plan is triggered. His interpretation of the ordinance was the same as staff.

Tom McKeon was comfortable granting the waiver. Bernie Pender said they need to have clarity and a reason to grant a waiver.

Jay Chace asked about the lack of overstory trees as required by the standards. Mr. Greer said the trees they chose for this project have lower canopies to provide screening for the top of the buildings. The overstory trees have a higher canopy and do not screen the buildings.

Jay Chace asked about the gap in the proposed landscaping; Mr. Greer said it was designed to provide visibility to the building; there are signs on the front of the building that they want people to see from Route 100 and the turnpike intersection.

Jay Chace asked about adding lower shrubs in that area; Mr. Greer said there are three fence areas in there which fill in some of the lower portions.

Rudy Israel moved to grant the waiver on section 9.27(a), with the condition that some lower growing shrubbery be added in the gap. Tom McKeon seconded. Motion carried 4-0.

Waiver #3 – Section 9.31.b(2) – Requirement for the endorsement of the Cumberland County Soil and Water Conservation District for the Stormwater and Erosion/Sedimentation Control plans:

Mr. Greer said the outlets are stable and they have labeled the new pipes. This does not impact the existing stormwater. All the water ends up on the Chase property.

Jay Chace wanted to see proof that the existing system is working. He agreed that CCSWCD endorsement might not be necessary for this project. Bernie Pender agreed.

Tom McKeon moved to grant the waiver on 9.31.b(2); Rudy Israel seconded. Motion carried 4-0.

Jay Chace asked about the front setback and the 14 angled parking spaces; Mr. Greer felt the Town Attorney would decide the issue of the setback. Ethan Croce said they would ask the applicant to provide proof that the parcel along Route 100 is in separate ownership, and they would forward it to the Town Attorney if it needed review.

Mr. Greer said if it is a side piece, they would expand the pavement to make the spaces conforming; if it is a front line, Mr. Cooper will have to consider putting those spaces back to parallel as shown on the original approved plan.

Jay Chace wanted to see information from public safety that the fire lane access is sufficient. He asked if any one-way signage was proposed for the site. Mr. Greer said they did, and the angled parking forces people to go one way.

Jay Chace said the applicant miscalculated the amount of minimum parking in the application; Mr. Greer said he had an outdated ordinance.

Jay Chace asked if a sidewalk was proposed along the new front of the building. Mr. Greer said they could add it in. If they change the parking to be conforming, they will add the sidewalk.

Tom McKeon asked to see how pedestrians can get around the building safely. Jay Chace suggested some internal crosswalk markings on the site.

Tom McKeon wondered about the external pedestrian access and whether that can be waived. Ethan Croce said either the Board can find that the standard is met, or the applicant needs to submit a formal waiver request.

Tom McKeon said it isn't being met, so he asked the applicant for a formal waiver request. He felt the size of the project merited a waiver on that standard.

Jay Chace argued that installing the driveway is the beginning of a connection to Route 100. While he didn't think they needed a full sidewalk along their frontage on Route 100, he felt they could install a sidewalk from the drive to Route 100 and thereby meet the standard. There is no telling when the Town might come in and build a sidewalk.

Tom McKeon agreed that it would meet the standard if there was a sidewalk there. Bernie Pender suggested that there might be some options for a gravel walkway instead of a paved walk.

Mr. Greer said for a sidewalk there, they would need to install a curb. They might be able to build a walk along the front of the property but it wouldn't lead anywhere. They might be agreeable to a contribution toward a future sidewalk on the other side of Route 100.

Jay Chace asked about the proposed lighting; Mr. Greer said they are proposing three new lights along the new drive.

Jay Chace said the lights that are there have been there all along; he asked about any interest in enhancing the lighting internal to the site. It is pretty dark in there. He encouraged them to consider more lighting.

Mr. Greer hoped the lights they are showing now are in conformance with Town standards.

The Board discussed the Exit 10 Design guidelines.

Tom McKeon asked about the focal points. Mr. Greer said the front building was intended to be the focal point of the driveway; the landscaping creates something of a focal point.

Jay Chace wondered about adding additional landscaping on the left side of the new drive to screen the loading dock. Mr. Greer agreed to look at it.

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Jay Chace asked about the current utilities. Mr. Greer said there an overhead line along the private drive; all the buildings have service off those lines. He was unsure whether they were overhead, underground, or a mix. There is a sewer collection that leads to the septic tank, and the site has public water.

Jay Chace said the guidelines speak to moving utilities underground. There is one overhead line identified as accessing the back building. Mr. Greer said they would look at it.

Tom McKeon moved to table the item; Bernie Pender seconded. Motion carried 4-0.

The meeting adjourned at 9:11 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary