

TOWN OF FALMOUTH
Board of Zoning Appeals
June 25, 2019
MINUTES

MEMBERS PRESENT: Nathan Smith-Chair; Jay Meyer - Co-Chair; Anthony DeRice; Nick Guerrette; Randy Cooper

MEMBERS ABSENT: Alex Pratt

STAFF PRESENT: Justin Brown, Code Enforcement Officer

1. Call to Order.

Meeting was called to order by Chair Smith at 6:30 P.M.

2. Application Completeness Review/Other Board Business.

Chair Smith asked the Board members if anyone felt there were incompleteness issues with any of the applications. There were none. In the absence of Mr. Pratt, Chair Smith appointed Mr. Cooper as a voting member for this meeting.

3. New Business.

- a. **1 Woodward Lane – Katherine Ann Vose & Manuel Hernandez** – Request for Conditional Use Approval under Section 19-77 for a 480 s.f. expansion of the existing home. Under Section 19-121, request for Set-back Variance for Single-Family Dwellings. Map-lot U54-020, Zoned RA, RCZO.

Mr. Hernandez presented his application to the Board beginning with some history to date.

Chair Smith brought the discussion back to the Board for questions. Mr. Cooper asked if the applicant had entertained an 8’ boundary line adjustment with the abutter. Mr. Hernandez stated he had but was unsuccessful.

Mr. Meyer asked the applicant if the survey that was to be done and provided has been completed. Mr. Hernandez stated it was not, but explained that he measured the actual physical distance using surveys from abutting properties, which resulted in the distances stated on the application as the most conservative. He further stated they considered building a second story but found it to be cost prohibitive and disruptive. Mr. Meyer asked if Mr. Hernandez had a price comparison between the two forms of renovation. Mr. Hernandez stated it would cost approximately \$160k-\$170k for a second story. The cost for the 1 story addition, which is still being negotiated, was the least costly of the two as well as allowing for a full basement.

Chair Smith confirmed that the existing home does not have a formal dining room. Mr. Hernandez confirmed this was correct, further stating that the house is a 2 bedroom with a small kitchen.

Mr. Guerrette asked Mr. Hernandez if he was going to have a survey completed. Mr. Hernandez stated he would get a survey if he was forced to, even though the survey would only give him the 30' setback within 2-3 feet not the 40' setback.

Mr. Cooper asked if Mr. Hernandez wanted a 30' addition. Mr. Hernandez stated he wanted an 18' deep and 28' wide addition. Mr. Cooper asked how far into the 40' setback the 18' deep addition would go. Mr. Hernandez stated it was at 32'.

There were no further questions or comments from the Board.

PUBLIC COMMENTS: No public comments.

The Board began a discussion to determine if the applicant met the criteria for a variance. The majority of the Board felt that strict application of the ordinance would cause undue hardship for the applicant and were leaning towards approving the setback variance.

Mr. Cooper moved to approve the variance application. Mr. Meyer seconded. Motion passed 5-0.

- b. **6 Justamere Road – Edward Andrews representing Sandra Sincero** – Request for Conditional Use Approval under Section 19-77 for an expansion of a residence within a non-conforming lot. Map-lot U01-143, Zoned RA, SZ-LR, RCZO, WVOD.

Chair Smith stated that the applicant asked that their application be tabled. Mr. Cooper moved to table the application to the next meeting. Mr. DeRice seconded. Motion passed 5-0.

Staff asked the Chair and the Board if they wanted to itemize findings of fact for the 1 Woodward Lane application. The general consensus of the Board was that finding of facts on the approval was not necessary.

- c. **215 Foreside Road – Acorn Engineering representing Handy Boat Service Inc.** – Request for Conditional Use Approval under Section 19-119 & 19-123 for a 2-story building addition. Map-lot U16-091-A, Zoned RA, SZ-LR, RCZO, WVOD.

John Marr, owner of Handy Boat Service Inc., introduced himself and presented the Board with history about Handy Boat and the property as well as the difference between their prior submission and the current proposed project.

Will Savage, Acorn Engineering, presented the project to the Board. Ryan Senatore of Ryan Senatore Architecture presented the building designs to the Board.

Chair Smith brought the discussion back to the Board for questions. Mr. Guerrette asked if the roof would be flat with rolled roofing. Mr. Senatore confirmed it would be. Mr. Guerrette then asked if they had considered putting any other type of material to blend it in. Mr. Senatore stated they had considered installing a railing and using it as a roof deck, but they were concerned with making the building taller.

Chair Smith asked Mr. Senatore to confirm that the actual height of the addition is a little bit taller than the existing restaurant. Mr. Senatore stated it was about 4 feet taller than the existing restaurant.

Mr. Meyer asked if the 22% expansion Mr. Senatore referred to was in the footprint or the volume. Mr. Savage stated that was gross floor area. Mr. Meyer then asked Mr. Savage if they had calculated the expansion of volume. Mr. Savage stated they had not. Staff discussed with the Board the specifics in the ordinance as it relates to this application. Mr. Meyer asked Staff where in the ordinance it addressed Water Dependent Uses as a use. Staff stated in the Shoreland Zone under 19-111.d: Structures and Lots Principal and Accessory. Mr. Meyer also asked if there would be additional parking. Mr. Savage stated there would be only boat parking within the addition. Mr. Meyer asked if there would be any changed in the current parking. Mr. Savage stated there would be no changes to the existing parking field.

Mr. Cooper asked how the existing parking would affect the ability to enter at the garage door level. Mr. Marr stated that the movement of boats will be conducted during early morning hours when the traffic and parking is low. Mr. Cooper stated that it looked as though the stairs going down into the restaurant were going from external to internal stairs. Mr. Marr stated they will be dressing up that stairway area to make it look better and were not specifically enclosing the stairway.

Mr. Guerrette asked why they only went with 22% expansion instead of the allowable 30%. Mr. Marr stated that this project was about as large as it could be. If they had gone with the full 30%, the project would have looked much like the previously submitted design. He stated they are not trying to be disruptive to the neighborhood. They want to operate just as they have been.

PUBLIC COMMENTS: No public comments.

Chair Smith brought the discussion back to the Board for deliberation. He stated that the design was well thought out and accommodating to the neighborhood. He also stated his concern with waterviews with these types of projects and, being very familiar with this property, wondered if a site visit was warranted although he didn't feel one was necessary.

The remaining Board members felt the application was very thorough, giving the Board information they need to make a decision.

Mr. Cooper moved to approve the application as presented. Mr. DeRice seconded. Motion passed 5-0.

- d. **1 Underwood Road – Theodore Heidrich** - Request for Conditional Use Approval under Section 19-86 for an expansion of 30% of existing detached accessory cottage. Map-lot U18-025, Zoned RA, SZ-LR, RCZO, WVOD.

Theodore Heidrich presented his project to the Board. Chair Smith brought the discussion back to the Board for clarifying questions/comments. Mr. DeRice asked the applicant if he met with the abutters about this project. He stated there were a few in attendance at this meeting and further stated that the neighbors were thrilled with this project.

Mr. Cooper asked Mr. Heidrich to clarify the issue of public water versus drilled well. Mr. Heidrich stated they were looking to bring in Town water from the street.

Mr. Meyer asked if there were any erosion problems on that site. Mr. Heidrich stated none whatsoever.

Chair Smith asked what the height difference is between what existed and what is proposed. Mr. Heidrich stated it was 17-18 feet prior and 28 feet now.

Mr. Guerrette asked if there were any neighbors from the abutting property behind the cottage in attendance. Mr. Heidrich stated there was not.

PUBLIC COMMENTS:

Walter Libby, 8 Glen Road, stated he liked everything Mr. Heidrich is doing to his property. His only concern was with water from another abutting property running onto his, he doesn't want snow to be pushed onto his property, and he's concerned about his oak tree at the end of his yard. Otherwise, he has no issues with the project. Mr. Cooper asked Mr. Libby if any of his three concerns come from Mr. Heidrich's property. Mr. Libby stated at this time, they did not.

Jennifer Cohen, 5 Sandy Cove and 15 Underwood Road, has no problem with the project itself, but is concerned with the Town water project on Underwood Road. She doesn't want to see more erosion in this area. Mr. Meyer confirmed that her specific concern was with erosion during construction. Ms. Cohen stated a new driveway has been installed explaining that she wants it to stay there and not collapse in before the erosion is addressed by the Town.

Larry Adrienne, South Portland, asked if the trees between the house and the water were protected or could they be cut down. Staff explained the ordinance language relating to tree removal in a Shoreland Zone.

Mr. Libby returned to the podium to state that this project is preventing the erosion.

PUBLIC COMMENTS CLOSED.

Chair Smith brought the discussion back to the Board for deliberation. Mr. DeRice confirmed with the applicant that to access the cottage, they would go through where the other structure was removed. Mr. Heidrich stated that was correct, for right now. Mr. DeRice asked what the long-term permanent access to the cottage would be. Mr. Heidrich stated that he gave the Town an easement of 30' x 80' as part of the road abatement system. He further stated his ultimate goal for the cottage would be to piggy-back on that project and come across the gully removing the driveway from where it currently is and shifting it over. Mr. Heidrich stated that this project would be done sometime next summer allowing him to access the property through an extension of the existing Underwood Road. If the project doesn't happen, the temporary driveway will most likely become more permanent.

Mr. Cooper asked if the long driveway along the edge of the property depicted in the topographical map was going to be permanent. Mr. Heidrich stated no; that his ultimate goal is to build a house at 6 Glen Road and have the cottage at the shorefront. Mr. Cooper then asked who designed the driveway with respect the larger culvert size. Mr. Heidrich stated his contractor is a trained engineer, and they decided to go with the 20' pipe versus the 18' pipe as it was more than sufficient.

Mr. Guerrette asked Mr. Heidrich if bringing Town water to the cottage would impact Mr. Libby's oak tree. Mr. Heidrich stated it was not even close, and the water line would come down the driveway.

The Board discussed the merits of the application. Mr. Meyer stated his only suggested condition on the approval is that an Erosion and Sedimentation Control Plan should be submitted and complied with. Chair Smith asked for more clarification on why the project should be conditioned on an ESCP when it was already required of the previous project. Mr. Meyer stated it had to do with the topography of the site.

The Board and Staff discussed the driveway issue.

Mr. Meyer moved to approve the application subject to the condition that an Erosion and Sedimentation Control Plan shall be submitted, subject to the approval of the Code Enforcement Officer, and must be complied with. Mr. DeRice seconded. Motion passed 5-0.

- e. **112 Sunset Road – Michael Fasulo** - Request for Conditional Use Approval under Section 19-77 to replace patio material from concrete pavers to composite decking. Map-lot HL3-022, Zoned HL, SZ-LR, RCZO, HLOD.

WITHDRAWN BY APPLICANT.

4. Approval of Minutes from May 28, 2019.

Mr. Cooper moved to approve the minutes from May 28, 2019. Mr. DeRice seconded. Motion passed 4-0. (Meyer was not present in May)

5. Other Business

None

Meeting adjourned at 7:29 pm.

Recording Secretary,
Lisa Sangillo