

**FALMOUTH PLANNING BOARD
TUESDAY, AUGUST 6, 2019
MINUTES**

MEMBERS PRESENT: T. McKeon (Chair); B. Kaplan; R. Jordan; D. Sinnett; J. Kelly
MEMBERS ABSENT: J. Cole (Co-Chair); P. Kenlan
STAFF PRESENT: Dawn Emerson, Land Use Planner

Chair McKeon called the meeting to order at 6:33 p.m. Due to the absence of Mr. Cole and Mr. Kenlan, Chair McKeon appointed Mr. Sinnett as a voting member for this meeting.

MINUTES:

Item 1 Approval of minutes from the June 11, 2019 Planning Board meeting.

Mr. Kaplan moved to approve the minutes as presented. Mr. Kelly seconded. Motion passed 5-0.

ADMINISTRATIVE ACTIONS:

Item 2 OceanView at Lunt School II LLC & OceanView Memory Care LLC – 4 Schoolhouse Drive & 74 Lunt Road – Request for Subdivision/ Site Plan Amendment Approval to adjust a lot line and add 5 memory care units. Map-lot U27-003-J & U27-003-K, Zoned ESRD, RCZO.

Chair McKeon requested this item be removed from the Administrative Action List and placed on the regular agenda. Mr. Sinnett motioned to remove Item 2 from the Administrative Action list and place it under the regular agenda items. Chair McKeon seconded. Motion passed 5-0.

This item was heard after the vote on Item 3 – Public Hearing.

Rick Licht, Licht Environmental Design, was prepared to answer any questions the Board had regarding this project.

Chair McKeon confirmed with Mr. Licht that the project was to move a property line from one LLC to the other due to a change in use. Mr. Licht stated that was correct. Chair McKeon asked Mr. Licht to explain the change of use to Memory Care was from what building use. Chris Wasileski, Ocean View Retirement Community, stated the tenant for the building in question was a non-residential use. He further confirmed Chair McKeon's question that they were replacing office space with 5 new Memory Care units. Chair McKeon then asked if the Planning Board had authority to permit this pursuant to the elementary school district guidelines. Mr. Licht stated the use is a permitted use and they are changing the current use of the Lunt Office, further stating there are no density requirements in the ESRD. Chair McKeon was concerned about expansion outside of the ordinance. Mr. Licht stated this amendment was absolutely consistent with the use as it's being created to take up additional space that is now

vacant. Mr. Wasileski further stated he spoke with an abutter, Philip Kaplan – 73 Lunt Road, who had concerns about additional impervious area and if there would be square footage added to the building. He further stated that he replied to Mr. Kaplan that it would not be adding any square footage or impervious area as they are utilizing an existing tenant space in the old 1991 part of Lunt School that is attached to Legacy Memory Care. The abutter responded back to Mr. Wasileski stating he had no further questions or concerns.

There were no additional questions from the Board.

PUBLIC COMMENT: No Public Comments.

Mr. Sinnett moved to approve the application as presented including any conditions as recommended by Staff. Chair McKeon asked if the applicant was amenable to staff conditions of approval. Mr. Kaplan seconded. Motion passed 5-0.

PUBLIC HEARINGS:

Item 3 An amendment to the Official Zoning Map to rezone the property at 168 US Route One (map/lot U51-001-C) from RB to VC2.

Chair McKeon explained the purpose of the amendment for the benefit of the Board and the Public.

PUBLIC COMMENT: No public comments.

Mr. Sinnett motioned to recommend the amendment to the Town Council. Mr. Jordan seconded. Motion passed 5-0.

AGENDA ITEMS:

Item 4 Merrill Subdivision – Field Road/Woodville Road – Request for Preliminary and Final Subdivision Approval for a 6-lot subdivision on Field and Woodville Roads. Map-lot R03-066, Zoned FFm, RCZO.

Tom Farmer, landscape architect, gave a presentation of the project to the Board. He stated they have reviewed all the comments Staff has provided and feel they are easily addressed with conditions. He gave an overview of the project, explaining that 40.1 acres of the property that abuts the school property is being sold to the Town under separate agreement.

PUBLIC COMMENT:

Gregory Clugston, 39 Field Road, is concerned with the road specifically the amount of traffic and the condition of the road. He further stated he was concerned about the new wells and how that would affect his well.

Cammy Bedard, 10 Field Road, is also concerned with the impact to the area wells. She stated she was concerned with the Declaration Document, Article 4, Rights of Developer. She has questions about these rights, specifically Section A, that talks specifically about the developer having the right to change the size, number and location of the lots. She is also concerned about the congestion on Field Road and the erosion of the overall character of the neighborhood.

Public Comment closed.

Mr. Jordan stated he would like a site walk for this project. Mr. Sinnett questioned the Declaration document after a member of the public voice their concern about a portion of this document. He further stated that Article B of that document calls out the developer given the option to *“b) Locate on the Property, even though not depicted on the Plan, and grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes, conduits, and facilities, including but not limited to water, electric, gas, telephone, fuel oil, stormwater, and sewer.”* Mr. Sinnett wanted to strike this from the Rights of the Developer to make sure that any change that would normally come before the Board still must come before the Board, stormwater especially and any digging that we would normally review as a Site Plan Review. Mr. Sinnett also would like a site walk. He also stated that a development this size would not normally trigger a traffic study and wasn't sure if the project's proximity to the high school would change that.

Chair McKeon asked the applicant if there were any impacts on existing wells, referring to concerns that the Public mentioned during Public Comment and if the applicant had any understanding of the water supply. Mr. Farmer stated not specifically as it was not a requirement in the ordinance further stating they are unaware of any well issues in that area. Chair McKeon confirmed that the wells would meet Town and State requirements as far as septic and the relationship to the abutting property. Mr. Farmer stated yes. Chair McKeon then asked Mr. Farmer if the application does anything to maintain the rural character of the roadside on Field Road. Mr. Farmer stated the only open vista on Field Road is adjacent to Lot 3 and Lot 3 will be in a protected conservation land. It will either be in the open space or will have a 50 foot no disturbance buffer in the front yard and 50 feet on the perimeter. There was a discussion regarding the lots and the changes that will or will not affect the character of the road.

Chair McKeon asked if there is going to be any effort to connect the project trail system with any abutting trail systems. Mr. Farmer stated there were no direct abutting trails, but they could bring the trail system out to the right of way to Field Road and provide a

loop trail for the residents. Chair McKeon asked if their trail was going to be open to the public. Mr. Farmer stated it was not.

Chair McKeon asked if the applicant was amenable to the 19 Conditions of Approval provided by Staff. Mr. Farmer stated they had no problem with any of the conditions and further stated they are still working on the Declarations and have no concerns with making the revisions to make things clear and consistent with the plans.

Mr. Jordan asked if there were water issues in the area. Mr. Farmer stated they did not know of any. Mr. Jordan stated he didn't know if this is under the purview of the Planning Board to address that other than to request to do your best. Staff stated that the Planning Board could request a hydrology report. Mr. Jordan stated his recommendation would be to grant a preliminary approval pending a site visit after which the Board may have or would recommend more conditions of approval for the final approval. He further stated that if the Town Engineer felt a hydrology report was not necessary, Mr. Jordan would be satisfied with that. Mr. Jordan discussed the Declarations and the public comment that was conveyed regarding the Developer Rights. Mr. Farmer pointed out that there would not be any additional lots due to the complexity of the net residential density, required open space, buffers, and minimum lot size.

Chair McKeon asked the applicant to provide the Board with assurance from somebody with competence to do it that there is no risk to neighboring wells. Mr. Kaplan pointed out to Mr. Jordan that Item 18 of the conditions may address some of the issues with the Declarations.

Chair McKeon stated to the applicant that the Board would like to see the well issue addressed as well as the final Declarations rather than referring it to the Town attorney before the Board gives final approval. He would like the applicant to address Priority 5. Mr. Sinnett asked if there was any record of any traffic studies done in the area, perhaps when the elementary school was built. Staff stated she was not aware of any studies but hadn't specifically looked for one.

Mr. Jordan moved to deny the waiver for preliminary and final approval. Mr. Sinnett seconded. Motion passed 5-0.

Mr. Jordan moved to provide preliminary approval subject to current conditions of approval presented in Staff notes. Mr. Kaplan seconded. Motion passed 5-0.

Item 5 Falmouth Self Storage & BR Properties LLC – 50 & 56 Gray Road – Request for Site Plan Amendment Approval to divide the lot into two sections. Map-lot R05-045 & R05-045-C, Zoned MUC, RT100CO.

Tom Greer from Walsh Engineering presented the application to the Board and the Public. Chair McKeon confirmed that there is no change in use. Mr. Greer stated that was correct.

PUBLIC COMMENT: No public comments.

Chair McKeon asked the Board members if they had any questions or comments. He then asked Mr. Greer if they had the suggested conditions of approval as presented by Staff. Mr. Greer stated they did and were fine with them. Chair McKeon stated that Staff requested that language of stormwater and access easements referenced in notes 12.14 to be included in the deeds but confirmed with Mr. Greer that they are not changing anything. The easements are going from the back lot to the front lot to continue to use the pond. Mr. Greer further stated that part of the DEP application will be working out the language between the two deeds to make sure that gets maintained.

Mr. Sinnett asked if the lot change will increase or decrease the buildable area on either lot. Mr. Greer stated one lot will get smaller, but they will ensure that buildable areas are maintained.

Mr. Jordan pointed out that the wetland polygon at the end of the road appears to have been left open. Mr. Greer stated the water all drains off in that area to the river. Chair McKeon confirmed that the stormwater pond was already built. Mr. Greer stated it was. Mr. Jordan asked if the railroad was between the project site and the river. Mr. Greer stated it was not.

Mr. Jordan moved to approve the application as presented subject to suggested conditions of approval. Mr. Sinnett seconded. Motion passed 5-0.

RECESSED FOR A SHORT BREAK

Item 6 Ryan Berube – 41 Longwoods Road – Request for Private Way Approval for access to single back lot. Map-lot R01-032, Zoned RB, SZ-SP, RCZO.

Chris MacDonald of BH2M presented the application to the Board and the Public, explaining the differences between the previous submittal and this project. He explained that an earlier survey was incorrect as was the survey from the previous Planning Board submission. He explained that the survey presented this evening was an accurate survey as their surveyor was able to find monumentation that they did not have access to previously. Mr. MacDonald explained that there would be one curb cut servicing three driveways. Chair McKeon asked him to explain why there are 3 driveways. Mr. MacDonald stated one driveway is to 41 Longwoods Road, one driveway will be the private way, and one driveway services the abutter.

Mr. MacDonald stated that the Town Engineer had concerns regarding a maintenance agreement for the driveways. He further stated that they are proposing a maintenance agreement for Lots 1 and 2 and the abutter's right of way would be maintained via the agreement of the other two. He then addressed the Town Engineer's comment regarding the overlapping of the private way and the right-of-way. Chair McKeon asked Mr. MacDonald, per the Town Engineer comments, if any redundant right of way agreements were being eliminated in a way to consolidate the two overlapping ones. Mr. MacDonald stated it only requires an exchange of deeds with everyone involved. Chair McKeon confirmed that the applicant had the legal right to use that right-of-way and any competing use was not going to be a problem.

PUBLIC COMMENTS:

Jack Uminski, Mackenzie Way, is the President of the Falmouth Woods Homeowners Association and states the members do not want the developer using Mackenzie Lane or Periwinkle Way in their development.

Glenn McGillicuddy, 27 Longwoods Road, asked for a condition of approval that a stormwater calculation be done prior and post development as there is a culvert running onto the tip of his property.

Public Comments Closed.

Mr. Sinnett asked if the wetland that is listed is considered high value or low value. Mr. MacDonald stated he believed it was low value. He pointed out that the wetlands they show are not direct impacts.

Mr. Sinnett then asked about the notation on the plan to "extend culvert as required" and what would require it to be extended. Mr. MacDonald stated there may have to be a small extension if during construction they find the driveway encroaches on the wetland. Mr. Sinnett confirmed it was not to drain a larger area upstream of the culvert. Mr. MacDonald stated no.

Mr. Sinnett asked if there were plans to pave the "existing drive". Mr. MacDonald stated the existing driveway that accesses the back of the property would be proposed as gravel. Mr. Sinnett then asked in the approval of the project, would there be a condition that it remains gravel or is it open to future paving, including the turnaround area. Mr. MacDonald stated it could be open to future paving if the landowners decide.

Chair McKeon confirmed ordinance requirements with Staff.

Chair McKeon asked if during the construction of the road, there would be any impact on the abutting land. Mr. MacDonald stated there would be very little change and explained why. Chair McKeon asked if the 8" PVC under the Davis driveway currently

existing. Mr. MacDonald stated yes. Chair McKeon asked if the applicant would accept a condition that there would not be any significant increase of stormwater discharge onto the McGillicuddy property. Mr. MacDonald stated I think so, yes. Chair McKeon confirmed that the applicant was aware of the underlying utilities on Mackenzie Lane. Mr. MacDonald stated they were. Chair McKeon then confirmed that there was nothing about this project that was going to be built in the area of Mackenzie Lane. Mr. MacDonald stated not that they are aware of, no. Chair McKeon then confirmed that the applicant is aware that they are not part of the Homeowners Association. Mr. MacDonald stated absolutely. Chair McKeon then confirmed that the applicant understood that Mackenzie Lane and Periwinkle Way were off limits in name as well as function. Mr. MacDonald stated absolutely. He further stated they are not proposing frontage on either Mackenzie Lane or Periwinkle Way; all the frontage will be along the private way. Chair McKeon confirmed they were using the private way to establish their frontage. Mr. MacDonald stated that was correct.

Chair McKeon then asked if the applicant met the Town Engineer's concerns regarding the curb cut and the driveways. Mr. MacDonald stated he believed so as he had spoken with him early this afternoon and came to an agreement. Staff confirmed Mr. MacDonald's statement was accurate.

Mr. Sinnett moved to approve the application subject to Staff conditions of approval as well as conform with Section 19-119.h including any significant stormwater impact on lot U22-006-C. Mr. Kelly seconded. Motion passed 5-0.

Item 7

Eileen Beasley – 3 Heather Lane – Request for Fill Permit to add 83.32 C.Y. of fill to repair and prevent erosion on the property. Map-lot U32-013-T, Zoned RA, SZ-LR, RCZO.

Bill Grealish, the contractor, presented the application to the Board. He explained they are repairing an area on the property that washed out a few years back. He further explained that they have a DEP permit. Chair McKeon asked if they were building a retaining wall. Mr. Grealish stated they were not.

Chair McKeon and Mr. Grealish discussed what the project consisted of. Mr. Jordan asked if it was eroding from the river side or the top of the bank. Mr. Grealish stated it was coming off Heather Lane. He stated there had been trees that would help disperse the stormwater, but those were removed which has caused the erosion on Ms. Beasley's property.

Mr. Kelly asked if this was something that would have to be done periodically. Mr. Grealish stated no.

Mr. Sinnett stated in the plan set he did not see lot lines shown and asked how close it was to the nearest lot lines and what are those abutters. Ms. Beasley stated the only

abutter she was close to was Portland Water District. Mr. Grealish stated the lot line was well over 75 feet away. Mr. Sinnett asked if he would need to disturb the PWD land for access. Mr. Grealish stated he would not. He will be utilizing Ms. Beasley's land.

PUBLIC COMMENTS:

Dominique Lambert, 2 Heather Lane, opposed Ms. Beasley's request for fill permit due to concerns she has about the project. She is concerned about the timing of the project placing a hardship on her family as they use the end of the road to prepare their boat for winter. The other issue is it is a delicate area of road and she is concerned about the structure of the road.

PUBLIC COMMENTS CLOSED.

Chair McKeon asked Mr. Grealish if they could avoid damage to the road. Mr. Grealish stated they could as they would be using a 1-ton truck and a mini excavator.

Mr. Jordan asked if the applicant knew when the project would take place and if they had to cut any trees to get to the washout. Mr. Grealish stated the project would be the second week in September, would take a day or two, and no trees would be cut.

Mr. Sinnett moved to approve the application subject to Staff conditions of approval. Chair McKeon asked Mr. Grealish if he was amenable to the conditions of approval. Mr. Grealish stated he was. Mr. Kelly seconded. Motion passed 5-0.

Meeting adjourned at 7:40 pm

Recording Secretary,
Lisa Sangillo