

**Falmouth Planning Board
Selectmen's Meeting Room – June 18, 2019
Regular Meeting - 6:30 pm
MINUTES**

Present: Pat Kerfoot, *Chairman*, Charlotte Harris, *Vice Chairman*, Paul Dreyer, *Clerk/Secretary*, John Druley, Robert Leary, Pamela Harting-Barrat, Jim Fox
Also Present: Tom Bott, *Town Planner*, Michaela Shoemaker, *Assistant Town Planner*

Chairwoman Pat Kerfoot called the meeting to order at 6:30 PM.

MINUTES: June 4, 2019

MOTION by P.Dreyer/C.Harris to approve the minutes of June 4, 2019 as corrected.

Voted 7-0-0

PUBLIC COMMENT

None.

RELEASES:

William Buchanan – Request for Covenant Release

T.Bott - Letter from Mr. Buchanan states that there is sufficient access to Lot 2b. Wildwood Circle provides that access to 2B. I have been unable to identify where Parcel 4 is. We are able to release 2B. If the Board is comfortable with a two-step process and releasing Lot 2B.

Mr. Buchanan presented the Land Court Plan and explained the lots.

T.Bott - Lot 2B is where Lot 4 is. I think it is perfectly fine for the Board to release this.

MOTION by C.Harris/R.Leary to release the Covenant.

Voted 7-0-0

Cape Club – Request for Lot Release

J.Druley - I think that if Mr. McGrath is willing to take the responsibility of this road, not the Town, it's ok.

T.Bott - I recommend we do not release this until we know the amount of the bond.

P.Kerfoot - I think if we release the lots, we are culpable.

P.Harting-Barrat - I think this would be a bad precedent to set.

J.Druley - Historically the Town has accepted a letter from the Engineer. It's been a common practice.

Engineer Mike McGrath - There is a low point in this system. When they graded the road, there was a rainstorm and the area flooded. It took a while for the subbase to dry out. I made sure there was sufficient thickness and I certified it. All the catch basins are covered so that water from the surface doesn't fill up your drainage system with silt. The major road was ready to be paved and the cul de sac wasn't compacted in the late afternoon while I was there. The pavement is binder only. I did see a flaw that was fixed right away. We will remove some of the binder and replace it.

Kelly Durfee-Cardoza - It is not the intention to defy regulations. They felt they would lose their pavement. I was asked to provide the owners' apologies to you. I'd like to propose that we bond the binder course fully. We have the cost from Lawrence & Lynch. You would then control that amount of money if there should be a problem.

T.Bott - I recommend that we should take a look at the bond amount. We should pull cores out of the road so that we know that we are fine, have it verified by the Engineering Department, the full amount of the binder is in the bond amount, come back here in a week.

P.Kerfoot - Continued to June 25th subject to the approval of the Engineering Department, coring and an agreed upon bond amount.

PLANNING BOARD DECISION:

Applicant: Green Ocean Car Wash, LLC – Site Plan Review application to raze and remove the existing building in order to construct a car wash on the property adding more than 1,000 square feet of gross floor located at 187 Teaticket Highway

J.Fox recused himself.

MOTION by R.Leary/P.Harting-Barrat that the Planning Board vote to approve the application of Green Ocean Car Wash LLC under Article XXXIX (39) – Site Plan Review – of the Zoning Bylaw to raze and remove the existing building in order to construct a car wash on the property adding more than 1,000 square feet of gross floor area located at 187 Teaticket Highway, as depicted on plans entitled, “*Proposed Site Development Plans at 187 Teaticket Highway, Falmouth, Massachusetts*” prepared by Cape and Islands Engineering., dated March 11, 2019, revised June 4, 2019 and June 14, 2019; Scale – As Noted, (Sheets 1-6); along with architectural plans and elevations entitled, “*Green Ocean Car Wash 187 Teaticket Highway Falmouth, MA 02540*” prepared by Bruce Ronayne Hamilton Architects, dated June 2, 2019, Scale – As Noted, (Sheets 1-4) with the following findings and conditions.

FINDINGS:

The applicant, Green Ocean Car Wash LLC, is seeking to modify the Planning Board’s site plan review decision dated February 28, 2018 to construct a car wash. The applicant seeks to raze the existing structure and build a new structure on the parcel located at 187 Teaticket Highway, map number 39 14 024B 000, along with associated parking, drainage and landscaping. The parcel is 0.56 acres of land (24,200 square feet) and zoned business two (B2). The site lies within the Little Pond Coastal Overlay District and the Town’s Little Pond Sewer Service Area.

The Wastewater Division commented on the above referenced site plan in a letter dated May 23, 2019 stating the proposed development will require a variance from the Board of Selectmen under the Town’s Flow Neutral Bylaw, Section 180-55. It is requested that the applicant provide the following information for the Wastewater Division’s review:

1. Projected peak daily and average daily water use for the project in gallons per day, and the basis for the flow estimate (Title 5 basis if available would be best for peak flow estimate).
2. Size, capacity, type, and location of proposed Water Reclamation System to reduce water use and Separator System to remove oil, grease, grit and other contaminants from the wastewater before discharging to the sewer system.
3. Monitoring and maintenance plan for the water recycling and pretreatment systems, including pump-out frequency and disposal plan for materials removed from the Separator.

The proponent will also need to submit a sewer connection plan for Wastewater Division review/approval along with a sewer connection permit application. The Utilities Plan dated March 11, 2019 does not provide sufficient detail regarding the sewer connection (and in particular, regarding the water reclamation system and system for removing contaminants from the water before discharging to the sewer). The applicant responded to the Wastewater Division concerns in a letter dated June 4, 2019 and the Planning Board finds this information sufficiently addresses the Wastewater Division comments for the purpose of this decision.

The Town of Falmouth Engineering Division commented on the above mentioned site plans in referrals dated May 10, May 30 and June 13, 2019; the applicant’s engineer responded to the Town’s referrals included in a letter dated May 22, 2019. The Planning Board finds the applicant has adequately addressed the Engineering Division’s concerns.

Falmouth Fire Rescue Department commented on the above-mentioned site plans in a letter dated May 2, 2019 and the applicant revised plans to address the width of the driveway on the west side of the parcel. Fire Rescue also commented on an Engineering Comment from the May 30 referral stating the isle widths not including berms should be adequate for this application. The Planning Board finds the applicant has adequately addressed Falmouth Fire Rescue's concerns.

The Water Department in a referral dated April 30, 2019 stated the applicant will need to identify the required water service needed for the carwash and apply to the Water Department. The Water Department also strongly recommended the applicant upgrade to a 2" polyethylene line with the meter located outside of the proposed building. The Department is currently in the process of replacing the water main in Teaticket Highway during the next year and will coordinate upgrading the service line from the main to the property line. The car wash will need to have a backflow prevention and plumbing plan showing the location and type of backflow prevention. A survey must be done when construction is near substantial completion and coordinated with the Water Department.

The Planning Board finds the proposed modification to the site plan review decision appropriate for the site and thanks the applicant's Engineer for revising plans in a timely manner based on Board comment.

CONDITIONS

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board at a public meeting to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the Zoning Bylaw, no permit for occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval have been met.
2. Sound proofing measures shall be undertaken to insulate the sound decibel level associated with the vacuuming area.
3. The applicant shall install downward facing dark sky complaint lighting as to not spill over the property line into Teaticket Park.
4. The applicant shall provide dark green or equal awning at the pay stations to minimize visibility.
5. The landscaping shall be installed in accordance with the above referenced plans and shall be maintained in a healthy state.

Voted 6-0-0

Applicant: Borrego Solar Systems, Inc. – Site Plan Review application to construct a 7,330.500 kW large scale ground mounted solar photovoltaic energy generating system at 0 Blacksmith Shop Road and 0 Locustfield Road - Assessor's Map Nos. 22 02 009 000 and 22 02 012 003

MOTION by C.Harris/R.Leary that the Planning Board vote to approve the application of Borrego Solar Systems, Inc. under Article XXXIX (39) – Site Plan Review – of the Zoning Bylaw for the construction of a 7,330.500 kW large scale ground mounted solar photovoltaic and energy storage electricity generating system located at 0 Blacksmith Shop Road and 0 Locustfield Road Assessor's Map 22 02 009 000 and 22 02 012 003, as depicted on plans entitled, "*Site Use Plan*" prepared by Borrego Solar Systems, Inc., dated March 25, 2019, revised June 3, 2019, Scale – As Noted; (Sheets 1-10); with the following findings and conditions:

FINDINGS:

The applicant, Borrego Solar Systems, Inc., is seeking to construct a 7,330.500 kW large scale ground mounted solar photovoltaic and energy storage electricity generating system located at 0 Blacksmith Shop Road and 0 Locustfield Road Assessor's Map 22 02 009 000 and 22 02 012 003. The subject parcel is 2,871,475 square feet and 156,946 square feet and zoned Agriculture A (AGA).

The Department of Public Works Engineering Division referral dated May 14, 2019 outlines open comments from the past referral reviewing applicant's site plan. The applicant's Engineer submitted revised plans dated May 21, 2019 in response to the Town Engineering Comments.

The Planning Board finds the financial surety in the form of a decommissioning bond in the amount of \$373,817.12 that the applicant will provide is compliant pursuant to Article XLVIII (48) Section 240-255 in the case of abandonment or need for decommissioning. The Planning Board's review does not include Building Code review and the Board defers to the Building Commissioner as to issues related to Building Code. The Planning Board would like to thank the applicant for revising plans and elevations based upon Board review and comment.

CONDITIONS:

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the zoning bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval have been met.
2. The applicant shall provide a Financial Surety to the Town in the form of a decommissioning bond in the amount of \$373,817.12 pursuant to Article XLVIII (48) Section 240-255 in the case of abandonment or need for decommissioning of the large-scale ground mounted solar photovoltaic project.
3. The applicant shall install a seven-foot (7') chain link fence surrounding the solar facility field as defined in the approved site plans.
4. The applicant shall install no trespassing signage surrounding the three (3) detention basins.
5. The applicant may continue to utilize the constructed access road on the abutting town parcel it has previously used as shown on the approved site plan until such time as the Board of Selectmen recommends and Town Meeting votes to grant the applicant a permanent easement to use the constructed access road for this purpose. It is expected the easement will be presented to the November, 2019 ATM for action thereon. In the event of unfavorable Town Meeting action, this condition must be revised.
6. To be formally defined in the easement reference in Condition 5, the applicant shall re-construct approximately two hundred feet (200') of the initial existing entrance roadway to the intersection of the alternate fourteen foot (14') wide gravel road pursuant to the Town's subdivision bylaw minor streets roadway regulations. And will provide required stormwater infrastructure based on the subdivision road plans prepared as part of Condition 5.
7. The applicant will mitigate for the town's twenty-five (25) year standard storm water measure.
8. The applicant shall notify the Planning Board by certified mail of any change in the ownership of the solar project or the underlying parcel(s). Such notification shall include:
 - a. New Owner, contact information. If not the Owner (e.g. Attorney or Agent).
 - b. Details of transfer (e.g. rights, titles, or other)
9. Condition Number 3 shall remain in effect as long as the solar facility exists on the site.

J.Fox - I don't believe there will be a Certificate of Occupancy.

T.Bott - It may say something like the system won't be operational. The facility will not be available for production until the plan has been certified.

P.Dreyer - Change the word Occupancy to Operation.

T.Bott - Our bylaw says nothing about operation.

P.Dreyer - Condition 9 should be part of Condition 3. I want to cross out the 12 cents and cite the total amount.

T.Bott - There is a compound amount, there is an escalation clause.

P.Kerfoot - Let Tom work with anything that needs to be changed in number 1, remove the 12 cents, add condition nine to condition three.

Voted 7-0-0

PUBLIC DISCUSSION:

Applicant: Nature's Remedy – Special Permit application for a medical marijuana dispensary at 31 Teaticket Highway

T.Bott - Nature's Remedy is still working with their neighbors and have requested a continuance.

Substance Abuse Clinic Presentation by Michael Heylin

Mr. Haylin was absent

PLANNING BOARD DISCUSSION:

Update on Administrative Approvals for JML Care Center (184 Ter Heun Dr) and Bogosian Development (587 Main Street)

T.Bott - It is hard to make a decision in the absence of the necessary information.

Update of Form Based Code

T.Bott - I checked in with the Cape Cod Commission; it has taken longer than they hoped and expect a final draft this week. We are building off of the grant that they got. We are behind schedule, but the Commission thinks we will be able to get up to speed over the summer so that we will have an RFP to request funding for.

Update of Cape Cod Commission LCP Procedures

T.Bott - I will be ready for the June 25th meeting. We are in a pretty good position.

Design Review Standards

P.Kerfoot - Corey put together a list of references that we can look at for sources.

T.Bott - We are looking at an update to our design guidelines and our subdivision regulations. Better work has been put out there. We are looking at holding hearings on those over the summer to talk about those standards and what those changes might be.

C.Harris - The links that apply the most to us are the Cape Cod Commission's documents.

Committee Reports

P.Dreyer - Coastal Zoning has received a grant to evaluate Surf Drive Beach. We may have received a grant for a sediment management plan. The Chairman is supposed to come on June 25th to tell us about some of this.

ANNOUNCEMENTS:

J.Fox - Friends of Falmouth Station is having an ice cream social from 2-4 on Saturday, July 6th.

GENERAL CORRESPONDENCE: June 5, 2019 thru June 18, 2019

FUTURE AGENDA ITEMS:

P.Dreyer - Zoning Recodification update; Hotel on Scranton Ave was referred to the County Commission.

T.Bott - Zoning recodification group is meeting tomorrow; the Hotel had a procedural hearing and the Commission does have plans.

NEXT MEETING: June 25, 2019

MOTION by P.Harting-Barrat to adjourn at 8:25 pm.

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Sheri Theroux, Recording Secretary