MINUTES

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

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

MINUTES: June 18, 2019
MOTION by P. Dreyer/R. Leary to approve the minutes of June 18, 2019 as corrected.
Voted 6-0-0

PUBLIC COMMENT

J. Fox – July 6th there is an ice cream social from 2-4 at the Falmouth Bus Station.

RELEASES:

Falmouth Housing Trust (Lewis Neck Rd) – Request for Covenant Release

T. Bott - In front of you is an ANR Plan endorsed in 2011 that has a note on it that says “not a buildable lot”. The question is removing this note to make Lot C2 a buildable lot.

Karen Bissonnette – Falmouth Housing Trust currently has a P&S agreement for Lot C2. I am here to request the determination for access for Lot C2 is adequate as is for a building lot. Parcel C2 is eligible for a building permit for one home as it contains the required area, frontage and width. On August 9th 2011 the Planning Board added a plan note that required their review before this became a buildable lot. I have submitted an engineer’s letter that found Lewis Neck Road serves as adequate vehicular access for residential use. The Fire Department has no issue with emergency access. On My 24th the Water Superintendent said there is plenty of water capacity. Falmouth Housing Trust believes the existing access is adequate and sufficient.

Attorney Laura Moynihan – You are looking at the adequacy of the existing use. You have six lots that Lewis Neck Road serves. We are looking to add one more lot. This is a very low impact use. The road has a gravel base and is in very good condition. There are many of these roads in the town that serve residential uses. You have standards that you have looked at and applied in the past. Is the access adequate here, not what has happened with other applications.

C. Harris – I have a problem with telling the Board we can be as inconsistent as we want to be.

T. Bott – Our state law parrots the same information. Is it the Planning Board’s opinion that the access is adequate? That is what the law is. Roads are typically created under subdivision control. Outside of that they are created under 40B. The 1997 assessment was that Lewis Neck be widened to 18 feet and four inches of gravel material be placed on it. In 1998 the Demellois asked the same thing and the Board determined that this requires some improvements. The critical access should be about what, not about who.

J. Druley - Is there any record of a subdivision here?
T. Bott – I’m assuming there was a paper street and someone said it was adequate for the four at the top. We can go back and look.

J. Druley – Somehow these people got building permits so the access had to be acceptable to somebody at some time. I believe if we ok this that it won’t set a precedent. I just don’t understand how they got building permits if this road isn’t acceptable.

L. Moynihan – There were access determinations because the Subdivision Control Law was adopted in 1956 and there were building permits issued after this was adopted. You don’t have a written regulation for access.

R. Leary - I agree with John that the precedent has already been set by the houses being built. We allowed a gravel road not too long ago in North Falmouth. I don’t see why this couldn’t be an exception.

K. Bissonnette - This is not a busy road, it is a well-groomed road.

C. Harris – This May 1997 letter from Brian Currie cites a road 18 feet. We don’t have a standard for adequate access?

T. Bott - I don’t know where 18 feet came from. Perhaps Brian Curry and Eladio Gore came up with what would be an adequate number.

P. Dreyer – My understanding is the Fire Department withheld approval until they saw the plans.

K. Bissonnette – The Safety Officer had no issue after going down there in his vehicle. They will make the final determination once they have the plan.

P. Kerfoot – We have always looked at an 18-foot road. I can’t cite why. All of these houses were permitted somehow. Along the way it was determined that this was a sufficient road. A 12-foot wide road is very difficult. I could approve of this as a special case based upon prior ANR approvals and that it will be affordable housing with a requirement that there be a widening of the road to 14 or 18 feet across the front of that property to give the capacity to pull off.

C. Harris – Why suddenly apply the rule to the bits that are left?

J. Druley – Lewis Neck goes all the way out to Acapesket Road. Someone illegally put a pile of dirt there.

J. Fox – I think the access is inadequate unless they widen the road. What if they all put up a fence?

MOTION by J. Druley/C. Harris to approve based upon the permits that have been issued to property owners and the road being adequate for the proposed uses. This would be for the Housing Trust only.

P. Dreyer – I think it should be dependent on the approval of the Fire Department.

R. Leary – I think this is our only way out to help them with this.

Voted 5-0-1

Cape Club – Request for Lot Release

T. Bott – We continue to work with the Cape Club for a bond amount. Town Counsel has been reviewing the bond and we should be in good shape. The applicant opted for nuclear density testing. The Town Engineer is on vacation and will be back next week to determine the testing. There are still drainage issues and places where things are too thin. We are still determining what should be fixed. If the Board is willing, they could do a limited/provisional lot release for five lots that they could put model homes on. The idea would be to release these five Lots provisionally for model homes not for homes for sale and accept a two-hundred-twelve-thousand dollar bond. At such a point that we are straight with engineering about what
the actual bond amount is going to be we would do a second lot release for a larger bond amount for the remainder of the lots in the subdivision. No one’s under any obligation to do that, but I am empathetic to time and money. This may allow them to proceed showing their product and protects the Town.

J.Druley – I am in support. The bond amount may increase?

T.Bott – Absolutely. The bond amount made the assumptions they only had to put on the top coat, but they have to do extensive work to the roadway. At this point we don’t know so we are starting with the 212.

Kelly Durfee-Cardoza – That bond amount of 212,470 included $60,000 for the base coat and that’s based directly on the cost proposal that Lynch provided that included grading and gravel rolling and then the application of the binder. The binder is fully included in that amount.

C.Harris – Why five? That seems like a lot.

Kelly Durfee-Cardoza – Each of them are different. They are all three-bedroom homes, but they are all different.

P.Dreyer – I think the bond is fine. I’d like to think that is a misunderstanding, but the clear direction not to pave until the inspection was completed was ignored.

David Spiegel – I have spent five years working on this property, years working with the Cape Cod Commission. I have done everything that I can and I want to comply with the Board. We have had an unreasonable amount of rain and the situation would be worse than it is if we did not pave. We are bonded for the binder and the top coat. We only want to have the finest product. I apologize for what occurred.

MOTION by C.Harris/R.Leary that we give a provisional release to five building lots; number seven eight nine ten and eleven conditioned also on a bond of 121,470 dollars for the road.

Voted 6-0-0

PUBLIC DISCUSSION:

Applicant (cont): Nature’s Remedy – Special Permit application for a medical marijuana dispensary at 31 Teaticket Highway (Warwick and Assoc.)

T.Bott – Nature’s Remedy has asked for an extension through next month.

MOTION by J.Fox/R.Leary to continue to the end of July. (July 23)

Voted 6-0-0

Applicant: Nason Swain – Site Plan Review application to construct an addition to the garage for an accessory apartment at 26 Viber Lane

Nason Swain – We are looking to add onto an existing garage and convert it to a one-bedroom accessory dwelling. The existing lot is 48,133 square feet. The existing structure is a three-bedroom 1.5 bath with 2,700 square feet. The inside dimensions are 2,519 square feet. The proposed accessory dwelling is 792 square feet which is 31.44 per cent of the principal area. With the proposed addition, the lot coverage by structures is 5.86 per cent; total structures and paving is 14.9 per cent, height is 13 feet, and makes all setbacks. We will install a 1,500-gallon septic tank and tie it into the leaching field.

C.Harris – This is exactly what the accessory apartment bylaw was intended to do. It meets very thought and requirement that we had.
J.Fox – I would like to know the square footage of the primary dwelling? I have serious questions about these measurements.

P.Kerfoot – I suggest that we get that clarified.

J.Fox – We were not counting finished basements when we were working on this. The idea behind this was scale, fitting in the neighborhood.

Continued to July 9th.

Presentation: Coastal Resiliency Action Committee

Charles McCaffrey Chair the Coastal Resiliency Action Committee – We have been charged by the Selectmen to develop recommendations to improve the coastal resiliency of the Town. We need to consider both how do we maintain the natural forces shaping our shoreline and reducing the exposure to the risks from these forces. If a Town exceeds the minimum requirements under the Flood Insurance program, they get various levels of points that can result in a reduction of the premium paid by residents required to have flood insurance. We could secure up to a 15 per cent premium reduction for those residents. Being certified under the Massachusetts Municipal Vulnerability program made us eligible for certain grants We are one of two towns on the Cape that has achieved this certification. We’ve hired the Woods Hole Group to conduct a vulnerability assessment of Town assets along the coast.

R.Leary – Have any law changes come up?

C.McCaffrey - We’ve discussed the new concept and I’ve been thinking about how to do it. You have substantial restrictions so do we need greater restrictions? Is it adequate to be built higher within the velocity zone? How do we regulate development in an area that will be underwater in 30 years?

R.Leary – Is there a future plan from other groups in other Towns?

C.McCaffrey - Sandwich got approval to do this. It is Falmouth’s responsibility for Falmouth’s laws, budgets, etc. Boston is doing a lot of work that we can look at.

C.Harris – Is there any discussion of the public assumption of private risk?

C.McCaffrey – It’s going to be the Town’s resources being protected for the Town’s assets. It may not be feasible to protect the beaches. We will have to accommodate their moving, they can’t be easily protected in the face of four feet of sea rise.

J.Druley – How much has the sea level risen in the last 50 years?

C.McCaffrey – It’s about a foot. Projection for 80 years is six feet from what I’ve seen.

Applicant: 797 Main Street, LLC – Site Plan Review application to construct a mixed use structure with a 2,700 ± s.f. restaurant on first floor and 3 residential units above located at 797 Main Street (CEG, p.c.)

T.Bott – We received an easement agreement that we had questions about. We discovered there were some additional parking spaces that were allocated to the bank. The size of the restaurant may be changed. We asked for an extension from the applicant to sort through the issues. There is a bit more to just clarifying the language than we thought. Then we will be able to have another vote.

MOTION by R.Leary/C.Harris that the Planning Board vote to rescind for the time being the Site Plan approval vote of June 4, 2019 for 797 Main Street, LLC until the revised reciprocating easements are clarified and rewritten to the Board’s satisfaction and that the requisite number of parking spaces be available for both the restaurant and the apartments proposed on site.
Voted 6-0-0

PLANNING BOARD DISCUSSION:

Affordable Housing Summit

Chairman of the Affordable Housing Committee Ed Curley – We would like your input on the ideas we have put together as a subcommittee.

Update of Cape Cod Commission LCP Procedures

T.Bott – The Cape Cod Commission has recently adopted a regional policy plan. They’ve changed some of their guidance for local comprehensive plans. Copy of Cape Cod Commissions presentation distributed.

The Commission is meeting June 24th.

C.McCaffrey – I’m not sure the date the Commission is voting this, I’d be happy to convey any issues that you may have.

Planning Board Policy Manual Discussion

T.Bott – This is an excellent opportunity to look at the Board’s policies and procedures. There are some things that we need to look at defining more clearly.

J.Fox – The Board will not consider a roadway that is less than 18 feet wide for adequate access. We were looking for that policy.

J.Druley – These are recommendations.

Committee Reports

None.

ANNOUNCEMENTS:

None.

GENERAL CORRESPONDENCE: June 19, 2019 thru June 25, 2019

None.

FUTURE AGENDA ITEMS:

J.Fox – Davis Straits update.

NEXT MEETING: July 9, 2019

MOTION by R.Leary to adjourn.

Respectfully Submitted,

Paul Dreyer, Clerk/Secretary

Sheri Theroux, Recording Secretary