

Zoning Board of Appeals Decisions Decisions for: 05-01-2014

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

Special Permit No: 124-13

Applicants: CENTERCORP TEATICKET LLC of Salem, MA

Property Address: 111 Teaticket Highway, Teaticket, MA
Assessor's Map: Map 39, Section 15, Parcel 016, Lot 001

Date of Hearing(s): February 20, 2014, April 17, 2014 and May 15, 2014

Summary: Granted with Conditions

Zoning: Business 2

Groundwater Overlay: Little Pond Coastal Pond Overlay District

PROCEDURAL HISTORY

1. On December 31, 2013, Robert H. Ament of Ament Law Firm submitted on behalf of Centercorp Teaticket LLC application to the Zoning Board of Appeals to modify Special Permit 86-80 pursuant to Section(s) 240-51 C. (1), 240-18.1, 240-3 C., 240-107 B. and 240-212 to allow changes to parking and landscaping on subject property and to add shared driveway(s) use between 111 Teaticket Highway and abutting property 93 Teaticket Highway that will have retail use as Town Fair Tire.
2. The subject property is zoned Business 2 and is located within the Little Pond Coastal Pond Overlay District.
3. A duly advertised public hearing was opened on February 20, 2014 and continued to April 17, 2014 and May 1, 2014.
4. The public hearing was closed on May 1, 2014 wherein the Board made a determination.
5. Board members sitting on this application: Chairman David Haddad, Member Matthew McNamara, Associate members Mark Cool and Kimberly Bielan – both sitting as voting members. Note: Clerk Scott Zylinski recused himself from this application and hearing process.
6. The Board received documents and exhibits during the public hearing process which are on file in the office of the Board of Appeals at Town Hall, with approved plans set forth below:

Letters/E-mail(s) from Abutters or Interested Parties

None submitted to file.

Letters from Applicant/Applicant's Representative

Letter dated December 31, 2013 from Attorney Ament accompanied the application describing the proposed Town Fair Tire use at 93 Teaticket Highway and proposed change to 111 Teaticket Highway noting what was submitted.

Letter from Town Fair Tire undated giving brief outline of Town Fair Tire's operation and noting 30 stores

in the State of Mass. – Submitted to file on December 31, 2013.

Copy of a Letter from Attorney Ament to Eladio Gore, Building Commissioner dated December 24, 2013 regarding Town Fair Tire as a 'retail use' – E. Gore signed.

Copy of a letter from Kelly Engineering Group, Inc. dated February 14, 2014 to Town of Falmouth Planning Board [sent to ZBA via e-mail by Attorney Ament] – letter is in response to comments made at the Planning Board hearing for Town Fair Tire and use of Burger King lot at 111 Teaticket Highway for access to 93 Teaticket Highway [Town Fair Tire operation]. Letter had several attachments supporting information regarding Town Fire Tire and use of Burger King's lot; included is a letter from Wilder Companies [owner of abutting property at 137 Teaticket].

Copy of a letter from Attorney Ament to Design Review Committee dated March 4, 2014 regarding changes to the original building façade plans.

Letter from Attorney Ament to Town Planner Currie dated February 25, 2014 with attached revised plans for Centercorp Falmouth LLC regarding changes after meeting with ZBA.

NOTE: There were substantial e-mails submitted to the file between Attorney Ament and the staff of the Board of Appeals [ZBA].

Letters from Town Departments

None – See referrals

Referrals from Town Departments/Boards

Referral from the Water Superintendent MaryBeth Wisner with question marks for fire service and application – submitted to ZBA 1/15/2014

Referral submitted by the Engineering Department dated February 11, 2014 noting that the application was reviewed only for impacts to public right of ways and public utilities. Attached to referral was a copy of Engineering's review to the Planning Board

A copy of the Site Plan Review Decision from the Planning Board to Eladio Gore, Building Commissioner, dated April 2, 2014 – submitted 4/2/2014 [3 page memo dated 1/27/2014].

E-mail from Lt. Mel Trott of Falmouth Fire and Rescue as a referral dated January 14, 2014 that listed three (3) concerns regarding proposed project at 93 Teaticket Highway.

A referral submitted by Conservation Commission on January 13, 2014 states that there are no issues as long as stormwater is contained on site.

A referral submitted from the Board of Health on January 10, 2014 had no comments.

A referral submitted from the Planning Department had no comment [project is under review with the Planning Board as a 'Site Plan Review'].

Submissions from Outside Companies

Traffic Assessment from Ron Muller & Associates dated December 3, 2013 on behalf of Town Fair Tire to be located at 93 Teaticket Highway

"Stormwater Management Report" prepared for Centercorp Falmouth LLC by Kelly Engineering Group, Inc. dated December 18, 2013 – with attachments A through E.

Plans submitted by Applicant and approved herein by Board of Appeals

"Town Fair Tire Center 93 Teaticket Highway Falmouth, Massachusetts Floor Plans & Elevations" – Drawing A1 by Milliken Associates dated 12/3/2013 with a final revision date of 3/3/2014 and with a Board date

'received' stamp of April 9, 2014.

"Pedestrian Walkway Sketch" prepared for Centercorp Falmouth LLC 93 & 111 Teaticket Highway Falmouth, MA dated 4/15/2014 drawn by Kelly Engineering Group, Inc. with a Board date 'received' stamp of April 15, 2014.

"Site Development Plans for 93 & 111 Teaticket Highway Falmouth, MA" drawn by Kelly Engineering Group, Inc. consisting of:

- Sheet 1 - Title page dated 12/18/13 with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 2 - 'Existing Conditions Plan' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 3 - 'Layout Plan' dated 12/18/13 with a final revision date of 4/24/14 and with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 4 - 'Grading Plan' dated 12/18/13 with a final revision date of 4/24/14 and with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 5 - 'Sewer, Drain, and Utility Plan' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 6 - 'Detail Sheet' (Construction Notes) dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 7 - 'Detail Sheet' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet L1 - 'Landscape Planting Plan' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet D1 - 'Planting Details' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet D2 - 'Planting Notes' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014; and
- "Cobblestone Sketch" dated 5/14/2014 and with a Board date 'received' stamp of May 14, 2014.

February 20, 2014 Hearing:

Attorney Ament, representative for applicant Centercorp Teaticket LLC and Centercorp Falmouth LLC, along with Brandon Li with Kelly Engineering - Project Engineer and John Wypychoski - Construction Supervisor of Town Fair Tire reviewed the proposed Town Fair Tire operation to be located on 93 Teaticket Highway with access to said operation through the curb cut and driveway area of 111 Teaticket Highway where Burger King Fast Food Restaurant is operated. Attorney Ament explained that Centercorp Teaticket LLC owns 111 Teaticket Highway and that Centercorp Falmouth, LLC has a Purchase and Sale Agreement with the property owner of 93 Teaticket Highway (see file for letter of authorization) and will lease 93 Teaticket Highway to Town Fair Tire. He further stated that the applicant is in front of the Board of Appeals due to the shared driveway at 111 Teaticket Highway; the proposed use for Town Fair Tire at 93 Teaticket Highway is an allowed use in this Business 2 zoned district. Attorney Ament briefly reviewed the existing site noting that a 200 year old dwelling with accessory building exists, which will be removed and that two Beech trees towards the front of the property exist that applicant is proposing to maintain. The curb cut at 93 Teaticket Highway will be eliminated so as to help save the Beech trees as well and improve traffic flow on Teaticket Highway [Route 28].

John Wypychoski, Construction Supervisor of Town Fair Tire, informed the Board that most Town Fair Tire operations employ 8 to 10 employees; they sell tires and give alignments; and the largest vehicle is generally a pickup. Mr. Wypychoski said that Town Fair Tire operates Monday through Friday 8:00 am to 6:00 pm, Saturday 8:00 am to 4:00 pm and they are closed on Sunday.

Attorney Ament stated that the Town Engineering Department has reviewed the plans and changes made to plans regarding their comments. He explained the benefits to the modification of Special Permit on 111 Teaticket Highway is that there are safety improvements to the traffic flow on site and at 93 Teaticket Highway elimination of a curb cut, improvement to site, removal of nonconforming structures and the preservation of two Beech Trees. He explained that the application is in front of the Planning Board for Site Plan Review.

Board members asked questions regarding parking, safety of traffic flow to and from 93 Teaticket Highway through 111 Teaticket Highway, safety of pedestrians walking from 93 to 111 Teaticket while

waiting for service of vehicle at Town Fair Tire, possible pedestrian walkway on site, landscaping, deliveries to site(s), traffic flow on 93 Teaticket site and lighting.

The applicant's representatives addressed all questions and concerns and will get back to the Board on pedestrian walkway, landscape and traffic flow.

Public Comment: None.

Board discussion: Board discussed and asked applicant's representative to come back to Board with concerns on traffic flow on site, pedestrian walkway and landscape plan – eliminating some of the pavement.

Member Johnson made a motion to continue the hearing to April 17, 2014 at 6:30 PM. Member Cool seconded the motion. Motion carried 5 – 0.

Board voted 5 – 0 to continue hearing to April 17, 2014 at 6:30 PM

Continuation: April 17, 2014 – 6:30 PM – Selectmen's Meeting Room

Attorney Robert Ament, Brandon Li, Engineer and John Wypychoski, Construction Supervisor of Town Fire Tire reviewed revised plans and changes in the façade of proposed Town Fair Tire building. The existing lot coverage at 111 Teaticket Highway is 77%; zoning requirements were satisfied and drainage was approved by the Town Engineer. Attorney Ament explained that the Board's suggestion of pedestrian walkway between Burger King and Town Fair Tire would eliminate three (3) parking spaces. The revised plan shows a four foot wide walkway from Town Fair Tire [93 Teaticket Highway] to Burger King [111 Teaticket Highway]. The islands were re-designed with some green space eliminated to accommodate the walkway. The circulation on 93 Teaticket Highway was revised – it is now one-way traffic and a little narrower to accommodate the one-way. He reminded the Board that Town Fair Tire is a by-right use except for the shared driveway. He further stated that the concern of noise impact on the Inn next door has been looked at and it was found that the Inn has no rooms facing the Town Fair Tire operation; there is an entry to a hallway that extends the entire length of the Inn building; so little chance of noise impacting the Inn during daytime operation of Town Fair Tire. Attorney Ament informed the Board that the Planning Board approved project under Site Plan Review and a decision was submitted to the file.

The Board asked questions regarding proposed walkway across 111 Teaticket Highway - raised walkway or speed bump, landscaping, traffic flow and on-site stop sign.

Applicant's representatives addressed Board's questions.

Public Comment:

Stamen Zlatev of 59 Jericho Path spoke in opposition citing traffic issues and stating that businesses belong in the Mall.

Veronica Zylinski spoke in support of project stating that this is a congested area but design of the site and a few others in the past years have eliminated four curb cuts off the main street and improved traffic flow.

Board discussion: Members stated that they believe both sites [111 Teaticket and 93 Teaticket] have been improved, applicant addressed concern of pedestrian safety and traffic flow between sites, parking has improved and landscaping proposed will enhance both sites. The Board members agree that the project is good and the applicant has addressed concerns but still would like to see a more visual calming of traffic at walkway such as cobblestones.

Member McNamara made a motion to direct the Zoning Administrator to draft a positive motion decision. Member Johnson seconded the motion.

Member McNamara made a motion to continue the hearing to May 15, 2014 at 6:00 PM. Member Cool seconded the motion. Motion carried 5 – 0.

May 15, 2014 Hearing – 6:00 PM:

Board discussed and reviewed revised plans of "Layout Plan" – Sheet 3 drawn by Kelly Engineering Group, Inc. would be revised eliminating the proposed four speed bumps and the proposed "Cobblestone Sketch" dated 5/14/2014 showing proposed cobblestone calming feature for both sides of the pedestrian walkway on the two drive paths on 111 Teaticket Highway.

Public Comment:

Jane Perry, Chairman of the Falmouth Commission on Disabilities asked who will maintain the pedestrian walkway and striping on site, asked what materials the walkway would be and stated that the color of the hatch marks on handicap spaces should be yellow.

Attorney Ament explained that the pedestrian walkway would be concrete or asphalt, be 4' wide at level grade and would be painted. The walkway will have a cobblestone calming feature just before the walkway on both sides and both drive paths. The walkway will extend from the sidewalk at the building at 93 Teaticket Highway through 111 Teaticket Highway to the sidewalk in front of Burger King Restaurant. He further stated that there are three (3) handicap spaces at Burger King and two (2) handicap spaces at Town Fair Tire.

Ms. Perry said she believes that the yellow paint for walkway and handicap spaces has higher visibility.

Member McNamara made a motion to close the hearing. Member Bielan seconded the motion. Motion carried 4 to 0.

FINDINGS

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

This application is to modify existing special permits at 111 Teaticket Highway where a Burger King Fast Food restaurant is operated and to allow for access via 111 Teaticket Highway's curb cut to 93 Teaticket Highway where a proposed Town Fair Tire operation will be located. The subject property located at 111 Teaticket Highway is zoned Business 2 and has Special Permits to operate a fast food establishment. A Special Permit was issued in 1980 - #86-80 to operate a fast food restaurant known as Burger King with take-out window at 111 Teaticket Highway; in 1983 the applicant was granted a modification under Special Permit #63-83 to modify the hours of operation for Burger King Restaurant. The applicant then appealed the Board's determination as the applicant requested no restriction as to operating hours and the Board modified the hours of operation in the morning from 10:30 AM to 7:00 AM – but would not eliminate or extend the hours in the evening beyond 10:30 PM for Monday through Thursday and 12:30 AM for Friday through Saturday. The Superior Court affirmed the Board of Appeals decision. This modification was applied for under Section(s) 240-51 C. (1), 240-18.1, 240-3 C., 240-107 B. and 240-212 of the Code of Falmouth to modify Special Permit 86-80 for Burger King property at 111 Teaticket Highway to allow changes to parking, landscaping and to have shared driveway use between 111 Teaticket Highway and abutting property of 93 Teaticket Highway.

The Board finds that the applicant has worked with the Board of Appeals and Planning Board and have improved the plans originally submitted for proposed changes at 111 and 93 Teaticket Highway as represented and discussed herein. The Board further finds that the proposed retail use at 93 Teaticket Highway as Town Fair Tire is an allowed use in this Business 2 zoned district pursuant to Section 240- 48 A. and B. of the Code of Falmouth. Furthermore, the Board finds that through the plans submitted and reviewed by the Board of Appeals, access through 111 Teaticket Highway's curb cut to 93 Teaticket Highway is appropriate for this congested area on Teaticket Highway.

The Board finds through testimony of the applicant's representative that the hours of operation for Town Fair Tire will be Mondays at 8:00 am to 7:00 pm, Tuesday through Fridays 8:00 am to 6:00 pm, Saturdays 8:00 am to 4:00 pm and closed on Sundays. The Board further finds through testimony of the applicant's representative that box trucks will make deliveries to Town Fair Tire in the early to mid-morning hours so as not to impact the lunch and dinner rush at Burger King [111 Teaticket Highway]. Furthermore, the Board finds through testimony of the applicant that the bay doors of the Town Fair Tire operation will be closed except when cars enter or exit the service bays, so that the effect of any noise from this site and

operation will be limited and should not affect the abutting property where an Inn operates.

The Board finds that the used tires will be stored in a 'caged' area containing racks located in the southeast corner of 93 Teaticket Highway. The Board further finds that the 'caged' area for the outdoor storage of tires shall be enclosed within a chain link green slatted fence that will be locked. Furthermore, the Board finds that Town Fair Tire will maintain the used tires in the outdoor 'caged' area until said tires are loaded into box trucks and removed from site.

The Board finds that the trash dumpster shall be maintained next to the 'caged' area for tire storage as shown on the "Layout Plan" – Sheet 6 as approved herein. The Board further finds that the dumpster pad area shall be enclosed with a 6' cedar fence as shown in notes on "Detail Sheet" – Sheet 6 of the plans approved herein.

The Board finds that the creation of a pedestrian walkway [continuous concrete or asphalt 4' wide painted] with traffic calming features between the two sites [111 and 93 Teaticket Highway], the addition of stop signs on both sites, landscaped islands and arrows showing flow of traffic is an improvement to the plans to support the shared driveway of the two properties. The Board further finds that the applicant will install cobblestones on both sides of the walkway in each drive path as a 'calming feature' on 111 Teaticket Highway as shown on a "Cobblestone Sketch" dated 5/15/2014 drawn by Kelly Engineering Group Inc. and submitted to the file on May 14, 2014. Furthermore, the Board finds that the applicant is willing to consider comments made at the hearing in determining the color [yellow and white were discussed] of the pedestrian walkway on 111 Teaticket Highway.

Section 240-51 C. (1) of the Code of Falmouth is under Special Permit Uses and allows fast-food restaurants that shall be subject to Section 240-220 – multiple review and only with approval of a special permit from the Board of Appeals.

The Board finds that a fast food restaurant known as Burger King has operated at 111 Teaticket Highway for over thirty (30) years through benefit of a special permit. The Board further finds that subject property is owned by Centercorp Teaticket LLC and the abutting property at 93 Teaticket Highway is under Purchase and Sales Agreement by Centercorp Falmouth LLC. Furthermore, the Board finds that the proposed plans are a modification of special permits granted to 111 Teaticket Highway owned by Centercorp Teaticket, LLC and that said modification will not disrupt or adversely affect the current fast food operation of Burger King on subject property.

Section 240-18.1 of the Code of Falmouth – "Multiple Uses." Requires a special permit by the Board of Appeals for an additional use allowed in the zoning district after consideration of the combined effects of each use on the property and determination whether such combination is in harmony with the general intent of this bylaw utilizing the criteria of Articles XXII (Parking Requirements), XXIII (Performance Requirements), XXIV (Landscape Requirements) and XLII (Special Permits).

The Board finds that the proposed application discussed herein is to allow Centercorp Teaticket, LLC owner of 111 Teaticket Highway to share the driveway and curb cut with abutting property at 93 Teaticket that is proposed as a Town Fair Tire operation. The Board further finds that the elimination of the curb cut for 93 Teaticket Highway and the proposed shared driveway use at 111 Teaticket Highway is an improvement and a safety measure for traffic flow on this busy main road through Falmouth. Furthermore, the Board finds that improvements have been made to the traffic flow on 111 Teaticket Highway that incorporate safety measures for the shared use and possible pedestrian use of the two properties [111 and 93 Teaticket Highway]; a walkway for pedestrians with a calming feature from 93 to 111 Teaticket and stop signs on both properties as well as arrows showing traffic flow are proposed and shown on Sheet 3 of plans drawn by Kelly Engineering Group, Inc. with a final revision date of 4/24/2014 and noted in condition 1 below.

Section 240-3 C. of the Code of Falmouth allows the Board of Appeals to approve a special permit to extend, alter or change a pre-existing non-conforming structure or use if the Board deems said change is not substantially more detrimental than what exists.

The Board finds that the proposed application to modify special permits granted for 111 Teaticket Highway is appropriate and the proposed shared driveway use with improvements to traffic flow, landscape and addition of pedestrian walkway between sites will not be substantially more detrimental than what currently exists. The Board further finds that the applicant has paid close attention to all safety

measures to be considered for this shared use between the two properties [111 and 93 Teaticket Highway].

Section 240-107 B. of the Code of Falmouth – “Parking Reductions.” allows required number of parking spaces to be reduced through special permit from the Board of Appeals upon Board’s determination that special circumstances render a lesser provision adequate for parking needs.

The Board finds that the proposed parking plan for 111 Teaticket Highway is appropriate and adequate for the shared driveway use and traffic flow change for subject property. The Board further finds that special circumstances of the shared driveway and elimination of a curb cut at 93 Teaticket Highway make appropriate changes to the parking plan on 111 Teaticket Highway.

Section 240-212 of the Code of Falmouth – “Applicability.” Under Special Permits states that the Building Commissioner shall issue a building permit and/or use permit only after the application has been approved by the special permit granting authority and the applicant has also obtained all other permits and licenses, whether state, County or municipal and that fees for the special permit shall be paid by applicant.

The Board finds that the application has been reviewed by the appropriate departments – Planning Board under Site Plan Review and the Board of Appeals for modification of existing special permits – and that applicant has worked with the departments to insure a plan that is a benefit to the Town of Falmouth and approvable by both Boards.

The Board finds that the intent is to remove the structures from 93 Teaticket Highway and construct a building that will be suited for Town Fair Tire. The Board finds through testimony of the Applicant’s representative that they intend to keep and nurture the two existing Beech Trees at 93 Teaticket Highway.

The Board finds that the curb cut at 93 Teaticket Highway will be eliminated.

The Board finds that the proposed change to the pre-existing nonconforming dwelling and replacement with the proposed retail building that conforms to all dimensional requirements and is for a by-right use is not substantially more detrimental than what currently exists.

In addition to the above findings, the Board finds that the proposed plan discussed and represented herein for 111 and 93 Teaticket Highway will be in harmony with the general purpose and intent of this chapter and does include consideration of the criteria set forth in Section 240-216 of the Code of Falmouth as follows:

- A. The site is adequate in terms of size for the proposed modification of special permits to allow shared driveway access for abutting property at 93 Teaticket Highway; the presently allowed lot coverage at 111 Teaticket Highway will be reduced and be less nonconforming.
- B. The site is suitable for the proposed use as the properties discussed herein are zoned Business 2 and the shared driveway use with the improved traffic flow on 111 Teaticket are appropriate and adequate.
- C. There is improvement through the proposed and approved plans for the elimination of a curb cut at 93 Teaticket Highway and on the traffic flow and safety of the shared use of the driveway for 111 Teaticket Highway.
- D. The visual character of the subject property will be improved due to new landscape plans and elimination of some pavement; and there is no adverse impact on any view or vista from the roadway or abutting properties.
- E. The sewage disposal system for 93 Teaticket Highway will be put in place and signed off by the Board of Health prior to issuance of a Building Permit; the premises are in the proposed Little Pond Sewer District.
- F. All utilities for 93 Teaticket Highway will be adequate for the proposed use of subject property through the Building Department oversight.
- G. The proposed changes to the site of 111 Teaticket Highway discussed herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was Site Plan Review by the Planning Board which was taken into consideration by the Board of Appeals in rendering a decision.
- I. The application is within compliance of all applicable sections of the zoning bylaws as represented, except for the nonconformities stated herein.
- J. The approval of this special permit does not include any affordable housing.

Member McNamara made a motion to Grant the Modification under Special Permit 124-13 with conditions. Member Bielan seconded the motion. Motion carried 4 – 0.

DECISION

Pursuant G.L. c. 40B, the Zoning Board of Appeals of Falmouth (Board), after public hearings and findings of fact, by a vote of 4 – 0 hereby grants a modification of Special Permits 86-80 and 63-83 to Centercorp Teaticket LLC (applicant) to allow shared use of the driveway at 111 Teaticket Highway by abutting property 93 Teaticket Highway with associated improvements to traffic flow, creation of a pedestrian walkway, landscaping and traffic flow on both 111 and 93 Teaticket Highway, Teaticket, MA and subject to the following conditions:

1. The sharing of driveway at 111 Teaticket Highway, parking plan of 111 and 93 Teaticket Highway, landscaping of 111 and 93 Teaticket Highway, pedestrian walkway on 111 Teaticket Highway, speed bumps on 111 Teaticket Highway, traffic flow on 111 and 93 Teaticket Highway and use of 111 Teaticket and 93 Teaticket shall be as represented and discussed at this hearing and as shown on the plans approved by the Board of Appeals as dated and entitled:

- Sheet 1 - Title page dated 12/18/13 with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 2 - 'Existing Conditions Plan' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 3 - 'Layout Plan' dated 12/18/13 with a final revision date of 4/24/14 and with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 4 - 'Grading Plan' dated 12/18/13 with a final revision date of 4/24/14 and with a Board date 'received' stamp of Apr 28, 2014;
- Sheet 5 - 'Sewer, Drain, and Utility Plan' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 6 - 'Detail Sheet' (Construction Notes) dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet 7 - 'Detail Sheet' dated 12/18/13 with a final revision date of 2/28/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet L1 - 'Landscape Planting Plan' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014; provided that said plan may be modified due to reduced planting area on account of accommodating a pedestrian walkway;
- Sheet D1 - 'Planting Details' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014;
- Sheet D2 - 'Planting Notes' dated 12/19/13 with a final revision date of 2/27/14 and with a Board date 'received' stamp of Apr 2, 2014; and
- "Cobblestone Sketch" plan drawn by Kelly Engineering Group, Inc. dated 5/14/2014 and with a Board date 'received' stamp of May 14, 2014.

2. There shall be no derogations from previous Special Permit #86-80 and 63-83, except as approved herein.

3. The applicant at 111 Teaticket Highway shall at all times maintain the striping of parking spaces, all landscaping – including the islands, painting of directional arrows, stop sign(s) and the pedestrian walkway to insure visible direction of traffic flow and visual integrity of the site.

4. Cobblestone strips on each side of the walkway in the travel lanes at 111 Teaticket Highway as shown on the "Cobblestone Sketch" in Condition 1 above, shall be substituted for the proposed speed bumps shown on Sheet 3 dated 4/24/12 in Condition 1 above.

5. The applicant or its lessee of 93 Teaticket Highway shall maintain at all times the striping of parking spaces, all landscaping, painting of directional arrows and stop sign(s) on site to insure visible direction of traffic flow and visual integrity of the site.

6. The Board of Appeals shall administratively approve the modified Landscaping Plan – Sheet L1 that may be modified to accommodate the pedestrian walkway. The applicant's request for approval by the Board of the Landscape Plan shall be prior to final sign off by the Building Department for the project.

7. Any deviation, change or alteration of the plans for 111 Teaticket Highway or 93 Teaticket Highway approved herein, no matter how minor, shall be reviewed and approved by the Zoning Board of Appeals or the Zoning Administrator prior to implementation of any said deviation, change or alteration.
8. The Zoning Administrator shall be given the authority by the Board of Appeals to administratively approve any minor change of plans approved herein.
9. This permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days has elapsed after the decision had been filed in the office of the Town Clerk with no appeal being filed, or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. (Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.)
10. This permit shall lapse two years from the date on which this decision is filed in the Town Clerk's office if a substantial use of the Special Permit has not sooner commenced except for good cause as determined by the Board of Appeals.

Special Permit Decision by Falmouth Zoning Board of Appeals continued:

Special Permit#: 124-13

Applicant: CENTERCORP TEATICKET, LLC of Salem, MA

Subject Address: 111 Teaticket Highway, Teaticket, Massachusetts
Map 39, Section 15, Parcel 016, Lot001

And

93 Teaticket Highway, Teaticket, Massachusetts
Map 39, Section 15, Parcel 017, Lot 000A and Parcel 017A, Lot 000B

Action: The Board of Appeals, by the Chairman's signature below, represents that the Board voted as follows for the above referenced Comprehensive Permit.

Vote: Board voted 4 – 0 to Grant the Modification 124-13 of previous Special Permit(s) 86-80 and 63-83 as requested based on the Findings and subject to the Conditions stated above.

David Haddad, Chairman, Board of Appeals Date filed with Town Clerk

Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of M.G.L.

Chapter 40A and shall be filed within twenty (20) days after the decision of the Board of Appeals.

Notes:

SP 124-13 Centercorp Teaticket LLC - Town Fair Tire / 111 Teaticket Hwy posted to web 5/27/14 mm