



**Board of Zoning Appeals
Tuesday June 26, 2012 6:30PM Minutes
Falmouth Town Hall**

MEMBERS PRESENT – Fred Jay Meyer (Chair), Jonathan Berry, Stan Given, Willie Audet , Mr. Russell (Associate) and Rudy Israel (Associate)

MEMBERS ABSENT – Dennis Keeler (Vice-Chair)

STAFF PRESENT – Justin Brown, Code Enforcement Officer

1. **Call to order:** The meeting was called to order at 6:33 pm by Chairman Fred Jay Meyer.
2. **Discussion and adoption of the minutes of the previous hearing(s).**

April 24, 2012 on page 5 3rd paragraph turn “no” into “now” per Jonathan Berry. Approved unanimous with Mr. Audet abstaining.

May 22, 2012 Mr. Given asked for clarification on page 2 paragraph 2. Continued to next meeting for approval.

3. **Completeness of Applications**

6:37PM Mr. Russell noted that the application form submitted is not for the correct provision. It should be under 6.1.1 and a 6.2.2 form used is incorrect. He also asked about the 288 Foreside site plan.

4. **Applications**

6:42PM **22 Riverside Dr. Jon J. Balano**-Conditional Use under Section 6.11 for replacement of a roof and add a deck and stairs. Parcel U01-184, zoned RA.

Mr. Balano was present and reviewed the proposal. He would like to put a deck over an existing patio. Also has a garage situated which has a deck cut into the roof. Has a moisture barrier which is falling apart. Would like to replace that and add a roof to match the existing roofline. Rain and rot are issues he would like to address.

Public Input: No one was present from the public to speak to this item.

Mr. Berry asked about patio/deck. Is it one, both or other? The applicant responded that the deck will extend over the patio. He will square off the deck with the house coming out to the existing patio edge. The total distance between the subject home and the next door home is 22’6” at this section under review.

Mr. Berry asked Mr. Brown if the deck can be squared off in the setback. Mr. Brown indicated he spoke with the neighbor and found in the neighboring file that the garage had been cut back from the line and made to meet the 10' line and both property garages meet a 10' setback from the property line. Mr. Brown presented a plot plan.

Mr. Audet asked about the dimensions to the deck and the relationship to the waterline. He asked Mr. Brown for confirmation that the required wetland setback is met in the SOD. Mr. Brown noted that this is beyond the required 100' setback requirement.

Motion: Mr. Berry made a motion for approval of the application as presented in the official record. Mr. Audet seconded the motion.

Vote: Yea – Unanimous. (Mr. Russell voting as alternate)

6:53PM **35 Payson Rd. Christine A. Carter**-Conditional Use under Section 6.2 for an addition of a balcony. Parcel U01-017, zoned RA.

Mr. Meyer recused himself from this application as he is an abutter to the subject property.

Mr. Given acted as chair for this item.

Christine Carter was present and reviewed the proposal for a second floor balcony with French doors leading out to it from the inside. No outside stairs or access is proposed.

Public Input: No one was present from the public to speak to this item.

Mr. Israel asked Mr. Brown for an elevation of the building which was not available as of the meeting. One is expected by the architect and Mr. Brown noted they will be submitted with the building permit application. The applicant presented an elevation.

Mr. Audet noted that the proposal is before the board because it is on a nonconforming lot.

Motion: Mr. Berry made a motion for approval of the application as presented in the official record. Mr. Berry seconded the motion.

Vote: Yea – Unanimous. (Mr. Israel and Mr. Russell voting as alternates)

6:56PM **54 Pleasant Hill Rd. Susan Ashley Speckhart**-Requesting a variance under Section 8.4 to tear down and rebuild a garage. Parcel U33-013, zoned RA.

Ms. Speckhart was present and spoke to the application. The foundation has buckled and cracked. She would like to take down the structure and replace the foundation. Her property was owned by an abutter and was split. One building is currently on both properties on the property line. One side of the garage was torn down by an unknown entity. Her side is still standing and is 3' from her neighbor's garage and the property line falls along that lot. There is 5' between existing shed and neighbor's garage. She reviewed photos and other application materials that had been submitted to the board.

Public Input: Jessica Caplan 56 Pleasant Hill Road was present from the public to speak to this item. She owns the property adjacent to and up to the garage and supports the proposed project. It would be an improvement.

Mr. Given asked what year the adjoining house was constructed. The applicant responded that it was owned by Fortune and then split. The garage is about 15 years old and the shed about 6 years old per the abutter present. Mr. Given asked about the possibility of moving the proposed garage further onto the property. Mr. Brown noted that he had walked the property and there is a septic located such that moving the structure can not be moved in that direction.

Mr. Audet noted he would have liked a better site plan or even a survey. He asked about some dimensions on the plan. He would like to go over the criteria in more detail with any motion made by the board.

Mr. Berry noted that this is properly filed as a request for a variance. If passed it would be hard to accomplish meeting the requirements but feels that 6.5 better addresses this situation and should be utilized as criteria instead of the more arduous variance criteria.

Mr. Meyer asked Mr. Brown if the applicant were proposing to build an identically sized garage outside of the setbacks would she need to come before the board. Mr. Brown stated it could be approved administratively. He gave some explanation of Mr. Berry's comment to the applicant who had spoken with Mr. Brown previously about this potential topic of concern.

Mr. Meyer asked the applicant if there were another location for the garage. She reviewed the conditions of the property in relation to relocating the garage. She was not certain.

Mr. Meyer reviewed several plot plans that were submitted and discussed the history of the boundaries/plans drawn. He inquired if there is room in the back corner where the angle is located. She didn't think there is room but has not investigated the option.

Mr. Audet noted to the chair that it is difficult to draw any conclusions without a better plan.

The applicant asked about the section Mr. Berry had quoted about replacing a structure. 6.5 may be an alternative basically allowing for meeting the setback to the greatest extent practicable. Mr. Meyer told the applicant if a variance is not granted she could come back with a request for a conditional use.

Mr. Berry interpreted section 6.5 as applicable. He sees nothing holding the board back from converting the request to 6.5 instead of a variance and move forward with review and decision on that basis this evening.

Mr. Meyer stated this is a conditional use vs. a variance. This is different from the case last month where the board reviewed under different criteria within the same section of the ordinance.

Mr. Audet felt that a survey and delineation of existing property lines is warranted. The applicant noted that there is a pin located. Mr. Meyer agreed with Mr. Audet. Both would like additional information showing facts instead of just a hand sketch.

Stan asked if an approval could be granted with the condition that a survey be submitted after the fact. Yes this could be accomplished per Mr. Meyer.

Mr. Russell stated that he agrees with Mr. Berry that the board has the power to review the project under that criteria and should do so.

Mr. Meyer feels that one way or another the applicant should be allowed to relocate the structure. The criteria reviewed remains to be determined. He questions that 6.5 can be met although he doesn't disagree that the structure is in bad shape. He does not feel a variance is likely.

Mr. Audet reiterated that it would be easier to make a decision if the board had more information on the property boundaries.

Mr. Given felt that a contractor statement regarding the structural integrity would strengthen the argument under 6.5.

Discussion ensued as to the possibility of relocation the structure.

Mr. Berry was not inclined to ask the applicant to spend thousands of dollars on a survey to confirm what the CEO has already determined that basically there isn't a practical alternative location for the structure.

Mr. Berry reiterated that the item can be reviewed under 6.5

Mr. Audet feels that the first variance criteria can't be met and should be reviewed under 6.5 with more information.

Motion: Mr. Audet made a motion to table the item. Mr. Given seconded the motion.

Vote: Yea – Berry and Russell opposed. (Mr. Israel voting as alternate). Item tabled.

Mr. Meyer explained the options for the applicant to the applicant regarding variance and conditional use application.

Mr. Berry noted that the board generally asks the applicant for concurrence on continuing an application.

7:47 288 Foreside Rd. Alexa M. Dayton- Conditional Use under Section 6.2 for replacing a roof. Parcel U19-051, zoned RA.

Ms. Dayton was present and reviewed the proposal. She feels it is a straight forward matter. She purchased the home after it had been on the market for quite a while. It has a flat roof and

there are leaking issues and it is difficult to insure. She would like to improve the character of the home and neighborhood and make more practical use of the structure. She responded to each of the criteria under 6.2. She presented a deed showing that she is the rightful owner of the subject property.

Public Input: No one was present from the public to speak to this item.

Motion: Mr. Russell made a motion for approval of the application as presented in the official record. Mr. Audet seconded the motion.

Vote: Yea – Unanimous. (Mr. Russell voting as alternate)

Other Business

Mr. Sperry noted that he has come up with a draft of a plot plan as discussed at the last meeting and has submitted it to Mr. Brown.

Adjourn

The meeting adjourned at 7:53PM.

Respectfully submitted,

Dawn Emerson
Recording Secretary

**Please note that this is not a verbatim accounting of the meeting. An inclusive digital video file of the meeting can be accessed on the Town of Falmouth website.*