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**Board of Zoning Appeals
Tuesday April 24, 2012 6:30PM Minutes
Falmouth Town Hall**

MEMBERS PRESENT – Fred Jay Meyer (Chair), Dennis Keeler (Vice-Chair), Jonathan Berry, Don Russell (Associate), Rudy Israel (Associate)

MEMBERS ABSENT – Willie Audet and Stan Given

STAFF PRESENT – Justin Brown, Code Enforcement Officer (CEO), Craig Assistant CEO

1. **Call to order:** The meeting was called to order at 6:34 pm by Chairman Fred Jay Meyer.

Mr. Meyer noted that the application for Kathleen Porensky will be moved to the beginning of application review. Some items on the agenda are continued from the last meeting where public input was taken and he asked those present to please refrain from repeating concerns already highlighted and speak to new matters only.

Mr. Meyer noted that the agenda is particularly long and that applicants at the end of the agenda may request their item be tabled to next meeting as the board will not take new applications after 10:30pm.

Mr. Russell and Mr. Israel were appointed as voting members in the absence of Mr. Audet and Mr. Given.

2. **Discussion and adoption of the minutes of the previous hearing(s).**

Motion: Mr. Keeler made a motion to approve the minutes of March 27, 2012 with two changes. The motion was seconded by Mr. Berry.

Vote: Yea – Unanimous.

3. **Completion of applications:**

4. **Applications**

45 Waite's Landing Rd. Kathleen W. Porensky, Conditional Use under Section 6.2 for an addition. Parcel U05-021-C, zoned RC.

Steve Grand, builder for the applicant was present and spoke on behalf his client who was also in attendance. Mr. Russell stated that he felt there were no issues with the proposal. Mr. Keeler asked if the proposed expansion is over the existing stairs. Mr. Grand responded that the proposal is to extend by 32 inches to make the structure 8 feet by 8 feet. All setbacks will

be met. The reason the project is before the Board is because the lot is deficient required road frontage.

Mr. Berry indicated he had no concerns with the proposal.

Motion: Mr. Keeler made a motion to approve the application for an addition as presented. The motion was second by Mr. Israel.

Vote: Yea - unanimous.

1 Shady Ln. Brent Nappi- ITEM TABLED from March meeting- Conditional Use under Section 8.3 for a home occupation. Parcel U59-018, zoned BP.

Nicholas Walsh spoke for Mr. Nappi and gave an overview of project. He noted that the item has been continued and the board has heard prior presentations and he is available to answer questions.

Mr. Meyer indicated that the board is familiar with the application and will ask questions in lieu of a formal presentation by the applicant.

Public Input:

Mr. Doyle of 3 Shady Lane was present and indicated new information regarding the subject property was discovered in late April. He brought up issues on the site where no permits have been issued. He specifically noted concern with areas of fill, state licensing and location of structure in regard to the rear setback. He has notified the CEO who has not had opportunity to visit site prior to this evenings meeting. Mr. Doyle presented Justin Brown with a copy of a list of facts to copy to the board.

Arthur Batson of 2 Shady Lane was present and spoke. He lives next to Brent Nappi and also owns commercial land behind Mr. Nappi's property. He spoke in favor of the approval of the application with certain conditions applied as follows:

1. Limited to 3 tanks as currently are used.
2. No overnight delivery trucks allowed.
3. The applicant will grass over worn areas and maintain lawn with cobblestone edging to deter parking on the grass. Mr. Batson indicated he would like to avoid the creation of a second driveway which isn't typical for a residence in this area and that the informal drive being created is next to his driveway and causes conflict.
4. The applicant will finish his shed with shingles matching the house.
5. Hours of operation to be restricted to normal business hours as defined by the town of Falmouth
6. Restrict the size of vehicles to a van or ¾ ton truck, specifically no tractor trailer trucks. Mr. Batson noted that the street is a dead end with restricted turning radius and commonly used by pedestrians.
7. Storing more than one boat or trailer is prohibited.

8. Doors to the garage where processing occurs are to be kept closed except when loading or unloading.
9. The lawn should be maintained in keeping with the neighborhood.

Mr. Batson handed out a list of these requests and reiterated that he feels that if the use is approved it should be restricted and used as an inside home occupation.

Mr. Nappi was present to answer questions.

Mr. Berry asked if Mr. Nappi had any objections to the conditions as proposed by Mr. Batson.

Mr. Nappi indicated he preferred hours of 7am-5pm instead of the requested 8-5 in Mr. Batson's memo. He can operate within the suggested timeframe but prefers earlier hours. He indicated he can accommodate the truck maximum size request. He noted that he is currently fixing up his yard; he can keep the doors closed and maintain the tank number at three. The only delivery truck used will be his own. He stated that his is not a traditional lobstering business and reiterated his desire to start at 7am. He stated that he is unsure what a ¾ ton truck is. He has a one ton pick up of his own which he would like to upgrade. He inquired if a single axle pick-up style falls within the criteria. Mr. Meyer asked what is used currently. Mr. Nappi noted that a panel van truck currently is used for pick up.

Mr. Berry asked if the business is licensed with the State of Maine.

Mr. Nappi informed the board that a harvester isn't required to have a license and that he does meet licensing requirements. He is a harvester selling exclusively his own product. If he expands he will be required to get further licensing. He did buy a wholesale license but has not operated under it. That license is only for purchase of other peoples product and resale.

Mr. Keeler asked if other than refining the truck size issue and hours of operation are the other items acceptable. Mr. Nappi answered in the affirmative. Mr. Keeler asked where traps are currently kept. Mr. Nappi stated that he stores them on floats in the summer. They are constantly used and discarded. He fishes year round and traps aren't brought home.

Mr. Keeler noted that under 5.2.1 only be members of family residing in dwelling unit can work at the location. Mr. Meyer clarified that the application is under 5.2.b so that provision doesn't apply.

Mr. Israel had questions. He agreed that Mr. Doyle's comments and conditions should be incorporated into a document that becomes part of any approval.

Mr. Russell asked if there is any merit to the list of violations by presented by Mr. Doyle.

Mr. Nappi stated that he spoke with MDEP and that non-permanent structures do need a permit and he has made application.

Mr. Russell asked if Mr. Nappi anticipated the permit will be disapproved. Mr. Nappi indicated that he has no indication it will not be approved. About a week ago a MDEP representative came to the site. Justin Brown spoke with MDEP today and so far no issues.

Mr. Keeler noted that licenses and state permits not in front of the board. Those are separate issues with state and he does not want to construe that the board is making any ruling on the issues raised by Doyle as far as lack of permits or violations.

Mr. Meyer asked if the storage shed is used in business. Mr. Nappi replied no – for personal storage, gardening etc.

Mr. Keeler asked how many traps are on site to which Mr. Nappi responded about 20 under construction. They are rotated into the water after repairs. There is no storage on the site.

Mr. Meyer asked if any boats or trailers are currently stored to which Mr. Nappi offered that yes there are two skiffs and he has no problem with a condition of a maximum of one skiff stored on site at a time.

Mr. Meyer asked if either skiff is over 24' in length and Mr. Nappi stated no.

Mr. Meyer closed public comment and opened discussion by the board.

Mr. Russell felt the recommended conditions from the neighbor are reasonable and as the applicant agreed any approval should be subject to them as conditions. Mr. Israel agreed.

Mr. Keeler stated he was inclined to grant an approval with a 7am start time as requested by the applicant. In regard to the truck issue he wants the appearance in keeping with trucks in a traditional residential neighborhood, Commercial trucks should be restricted. He agreed they should allow some flexibility in the ¾ ton recommendations but not go overboard.

Mr. Meyer asked Justin Brown for input to which he responded that it is tough to define and that any cut off point used will be difficult to ascertain. The applicant agreed with Mr. Brown and reaffirmed that he doesn't want his business to be unsightly.

Mr. Meyer stated that the shed issue seems unrelated and he doesn't want to delve into that issue. The 7 a.m. start time suggested by Mr. Keeler is supported by several other 7 a.m. start times for other activities as provided in the ordinance. He felt the truck should not have panels, be restricted to 2 axles, only one boat should be stored on site, and the doors to the tank area should be kept shut. He felt that two valid concerns are noise and traffic but the conditions as suggested should go a long way to addressing these items.

Justin Brown referred to the zoning ordinance regarding boat storage and noted the regulation doesn't restrict number of boats.

Motion: Mr. Keeler made a motion to approve the application with the following conditions:

1. The operation is restricted to 3 tanks.

2. No delivery vehicles will be parked overnight at the property.
3. The existing 2nd vehicle access will be eliminated and the lawn maintained.
4. The existing shed should be shingled to match the house.
5. Hours of operation are restricted to the period between 7am and 5pm.
6. Trucks used are restricted to be no larger than a van or panel truck, no more than two axles, no CDL licensed or commercial vehicles are permitted.
7. Storage of more than one boat is prohibited.
8. No storage of traps on site, although new and maintained traps may be staged there.
9. Doors should be shut at all times except during loading and unloading activity.

The motion was seconded by Mr. Berry

Mr. Berry noted that Mr. Doyle's concerns are beyond BZA jurisdiction. Mr. Nappi's willingness to meet abutter conditions shows good faith. He is comfortable with the proposed conditions and decision to approve.

Mr. Keeler stated that he doesn't feel addressing the shed is necessary or appropriate under this application as is not used as part of business.

Mr. Berry stated that his view of the shed is that it came into existence to replace space in the garage which is now used for business. He feels it is fair game.

Mr. Russell noted that more than two boats are allowed in this district and he doesn't feel it should be restricted to one for someone who is in the trade and may need to do repairs. He feels it is unduly restrictive and should not be a condition.

Mr. Meyer feels the boat storage is connected with the home occupation and when taken in totality with vehicles, traps etc. it does have a potential to overtake the neighborhood. Mr. Meyer does support restricting the number of boats onsite to one.

Mr. Berry stated that the board has been consistent with this type of ruling with a landscaper application in regard to storage of loam. The storage activity reflected evidence of an ongoing business even though piles of loam may exist normally as part of a residential use.

Vote: Yea - Unanimous.

45 Foreside Rd. Hugh Smith, representing St. Mary's Church- Conditional Use under Section 8.3 & for an addition and renovations. Parcel U07-005, zoned RC.

Mr. Keeler and Mr. Israel recused themselves.

Austin Smith, Tom Gorrill, and Steve Blaise were present as agents on behalf of the application.

Mr. Russell asked if this plan supersedes a previous proposal and one by neighbors represented by George Thebarge.

Mr. Smith stated the largest changes are to the lower parking lot. The applicant wants to maintain a gravel parking lot for fire department access, add additional gravel as necessary but primarily leave as is. They would still like two-way access off Route 88, and adding 10 parking spaces are the major changes with a few miscellaneous minor changes.

The land is all one parcel now and setbacks for structures can be met. The net increase in building footprint is 900 square feet. The building is 4500 square feet over 2 floors in its entirety. The two paths for burial procession will be maintained along with burial gardens and plots. He noted this is an active burial yard. All plots have been sold but not yet occupied.

Steve Blais spoke regarding access calming improvements on Route 88. The cut is currently 72 feet wide and more than 60 degrees. This doesn't meet the current code. The proposal includes adding sloped granite curbing to the center island and on both exterior aisles to keep people from cutting the corner and to decrease speeds. The current grades shown meet code. Sloped vs. vertical curbing is being used to address emergency vehicle access (mountable curbing) and will be paved and plowable in winter. The island will not be landscaped. The Fire Department has had input and the model addresses concerns regarding ladder truck access.

Mr. Russell noted that no signs should be put on this island. Mr. Blais indicated there will be no signage at this location.

Tom Gorrill was present and spoke to traffic issues raised at the last meeting. He did traffic observations himself so as to have first hand knowledge of the site. He observed the site on Sunday march 4th 9-10:15 am and 11-12:30pm. He also reviewed on Tuesday March 6th during an AA evening meeting. He looked at the collision history from the MDOT and found that no collisions occurred within last 3 years. He went back 10 years and found 3 accidents. In 2004 a car making a left turn out of Waite's landing and one making a left in collided. On May 30, 2003 a vehicle went off Waite's landing and hit a CMP pole. On July 13, 2005 a car went off Waite's landing road going around a curve. No safety or collision history was found associated with this drive. He agreed that making the drive conforming is a good improvement although no issues currently exist. Current conditions may not be preferred under current guidelines. The proposal dilutes traffic a bit with 2 access points. It requires all vehicles to exit on Route 88 which is counter to policy that traffic engineers promote. In summary Mr. Gorrill does not find this to be an unsafe or congested intersection.

Scott Simon reviewed the lower parking lot storm water drainage.

Steve Linnell spoke indicating that impervious area has been reduced significantly since the last submittal. The proposal includes a dry detention basin. The rate of flow onto Waite's Landing Road after development will be less than it is today and this should address George Thebarg's concern about the 100 year storm. It is not an optimal system down the road and the 12" culvert could be 15" but they are decreasing the rate of flow into the existing system so that is helping existing conditions off site in the right-of-way.

Mr. Smith reviewed the March lighting plan and compared it to the April proposal. The house side shield throws light into the site which allows 0 foot candles on abutting property. Freestanding lights have been lowered to 12' which has decreased foot candles at the edge of the property. The profile shows that light doesn't make it to the property line. Topography is taken into account and there is mature landscaping/vegetation in addition to that. No additional street lights are proposed on Waite's road.

Planting was also presented by Mr. Smith. He reviewed screening to the retention pond, barrier to parking lot, adding to screen secondary parking, and additional minor site change proposals. Detail elements of the barrier landscaping were presented. He noted that shielding headlights to the neighbors was also taken into consideration. The lighting is pedestrian scale.

Public Input

Hugh Smith at 2 Susan Lane was present and spoke. He is the Senior Warden of the parish. He wanted to clarify conflicting information from the last meeting. Multiple updates have caused confusion. The size of the expansion is a modest footprint gain of 900 square feet. The purpose is to primarily address mold/water issues, better organize classrooms, reconfigure meeting rooms and hallways for efficiency, and to make handicap and energy improvements. Daycare or daily school purposes not part of the proposal. St Mary's Woods have plots for sale and are active. Mr. Smith reviewed the history of uses of the property and outlined the character of the uses of the property.

John Graustein of 57 Waite's Landing Road was present and spoke. He lives a couple of hundred yards down from the church towards the ocean. He is concerned with significant drainage issues that are ongoing. Specifically he is concerned with the culvert under Waite's Landing Road which carries surface drainage from area houses. Water from the church and other residential property surface water goes into the culvert into Groustine gully of which he owns 1/2. The town put in a larger culvert but there is still too much water coming down the road and going into the culvert. The proposal is creating more runoff. The issue has been going on for years (on and off). The water came pretty close to his house at one point. He presented a photo of the gully to the board to exemplify the concern that water may overflow the road or go onto his property. The applicant indicated that the detention pond will hold water unless hurricane level. Mr. Meyer noted that the board does understand his concern. Mr. Groustine didn't have any other comments to the project.

Jennifer Gregg of East Ramsdell Road was present and spoke. She is a parishioner of St Mary's. Ms. Gregg reviewed the history of the proposal. Mr. Meyer asked for specific concerns as the meeting agenda is long. Ms. Gregg summarized that St. Mary's has been a constant in the community and noted that the number of parishioners has stayed constant and not increased significantly.

Ann Lafonde of 77 Waite' Landing Road was present and spoke. He is a member of the church which holds events promoting community on this site. He feels the plan will enhance the neighborhood by improving lighting, landscaping, and buffering of parking areas. They will tear down the dilapidated wing to be replaced. He feels this is a significant improvement for residents and will limit visibility of parked vehicles on Route 88. Ms. Lafonde reviewed

her observations of parking distribution on the site during different times of day. On a regular basis Tuesday night and Sunday morning are the only times the parking lot is full. She reviewed the process in which neighbor input was taken and addressed in the plan. Tonight's plan represents accommodation of abutter input and does meet conditional use standards.

George Theborge of Geoplan Consulting was present and spoke on behalf of several neighbors. He presented a handout of concerns raised by abutters which had been addressed by the applicant. He reviewed the memo point by point including attachment A regarding lighting. He asked the board to take into consideration that the applicant only modified the plan in accordance with abutter request. He feels this gives credence to other concerns of abutters that have not been addressed. He raised concerns with inconsistency of plans and photos taken at site walk on the 23rd. His clients have asked Mr. Theborge to come up with positive solutions and he is asking the board to condition any approval with a requirement to install a buffer the parking. His clients feel the access as proposed looking left on Foreside Road is unsafe. He responded to Tom Gorrill's presentation addressing concern of safety and disputed the application of the ordinance pertaining to a 250' site distance and perceived speed vs. actual. He feels it is reasonable to request modification to the entrance only. The Carons across the street will receive headlight impact and he suggested no access allowed on Foreside Road. He requested the board applies 2 conditions: the applicant install an attractive fence as determined by the Planning Board and the existing drive on Waite's Landing Road be narrowed. The Planning Board should address concerns about drainage and potential parking on Waite's Landing Road. A one-way entrance is more desirable to his clients.

There were no questions from board but Mr. Russell did comment that one way access does seem to address concerns raised by abutters.

Mr. Meyer spoke to the fence request and asked if the request is for a permanent fence or until mature landscaping established. Mr. Theborge stated permanent.

Mr. Meyer inquired whether a one-way entrance only on Waite's Road would be desirable. Mr. Theborge explained why in fact the proposal is for a separate entrance and exit.

Mr. Meyer asked if there is any other way to promote use of the Route 88 driveway. Mr. Theborge indicated he can't speak to this. Also, Mr. Meyer asked for input on drainage. Mr. Theborge made some basic statements to concerns.

George Barrett was present and spoke. He is a parishioner of St Mary's and spoke to the current status of two-way traffic. He feels it is a safety issue for the church. It makes sense to him that vehicles traveling through the campus to a one-way exit/entrance design put the public on the property in danger of those cars maneuvering the site. Pedestrian safety should be taken into consideration in the right of way but also on the site.

Dr. Rich Pizarion was present and spoke. He is a St. Mary's member and closest neighbor. He noted that the elevation allows exiting vehicle headlights to shine into his home and he is an advocate of a one-way entrance only at this location. He has first hand knowledge of driver behavior at this location/point of access.

Mr. Russell asked how Dr. Pizarion feels about a one-way entrance to which he responded that a narrowed one-way entrance could work. It could be an improvement to safety and not increase the issue regarding lighting.

John Gulliver of 23 Thornhurst was present and spoke. He is a member of St. Mary's and feels the focus should be on the proposed change not the existing uses. The only consideration by the board should be potential increased impact. The board should consider improvements to the site compared to existing conditions and take into consideration that the use is not changing, nor the intensity of use. Buffers are important but the issue to board this evening is potential significant incremental impacts of lighting. He feels the car lights etc. are no different than existing conditions and an incremental impact is nonexistent. The board should consider their purview.

Bonnie Rodden of 10 Shoreline Drive was present and spoke. She is a member of St Mary's. She commented on one-way access. If the parking lot is full she is concerned about the ability for fire truck access. She asked the board to consider the ability for people to disperse easily. One way creates risk in terms of folks leaving the site in case of emergency.

Mr. Berry feels all his comments are on record.

Mr. Russell had no further questions.

Mr. Meyer asked about fencing at least temporarily on the side of the parking lot.

Natalie Burns, Esq. of Jensen Baird was present and spoke. She represents the applicant and her client agrees to a fence along the parking which will be considered during the planning board process. Her client would prefer a requirement for a temporary fence until sufficient vegetation has been established. She stated that her client cannot consider a condition for one-way access. This is not acceptable to the church. She noted that the plan has been modified greatly to address neighbor concerns. A one-way access will have a negative impact of the use of the campus. Impact of the lights only occurs at night and mostly on Tuesday night and that is over by 9pm. This is not a significant detrimental impact nor is the parking issue.

Mr. Meyer asked about preference regarding access location. Ms. Burns noted that her client does not take a position on one location over another.

Mr. Berry asked for Ms. Burn's position on incremental impact. He noted that George Thebarger has argued that the ordinance opens the site for full review under the ordinance. Ms. Burns responded that she feels the board has jurisdiction over only those items that are presented as changes. The Church is trying to make improvements such as buffering and lighting but they are not required as part of this project. Her client's project meets standards for the proposal and primarily for existing conditions as well. She feels the board can only look at the requested changes however additional changes are proposed to improve the site for abutters. She stated that all aspects of the proposal meet the required standards.

Mr. Berry spoke to parking waiver. Neighbors don't want more parking on the site but are concerned about parking spilling over onto the street. Does the applicant feel the board doesn't have the ability to consider parking and safety concerns?

Ms. Burns feels that the client has addressed the parking and access safety issue as best as can be addressed. Parking on the street is a difficult balance and the area could be posted no parking. That rule would have to apply to the general public and not just church members. She reminded the board the town allows churches in neighborhoods as a conditional approval if conditions can be met. There is a certain understanding by decision makers that churches and schools are appropriate in residential zones. That decision has already been made by the town.

Mr. Meyer asked about any intentions to operate a daycare.

Ms. Burns stated that there is not one now and it is not allowed. There are no plans in the works for a daycare. An appraisal shows that impact on abutting properties indicates no negative impact as a result of the proposal.

Mr. Russell thanked Ms. Burns for her presentation which has clarified some points the board has considered and that there has been a real attempt to address. He noted that the neighborhood should not have the ability to veto a project. His concern is still around the entrance. He felt the entrance on Waite's Landing Road only seems helpful. Ms. Burns spoke to narrowing the entrance and keeping two-way access. Mr. Russell feels it may be more of a safety issue. Ms. Burns stated she has limited knowledge of traffic engineering but that narrower 2 way roads tends to slow vehicles. A more narrow one-way allows cars to go faster (psychological implications/impact). Again, going across campus creates internal conflict. Mr. Gorrill can speak with more authority to this concern.

Mr. Russell feels good recommendations have been made in the revised plan. His only question/concern is narrowing the two-way entrance. He is surprised the fire department agreed to this change. The rest seems well thought out.

Mr. Berry focus is on the scope of the BZA reviewing purview/authority. He feels abutter concerns raised are better addressed and falls under the purview of the planning board and should and can be addressed in that venue. The Foreside access isn't well marked as he noted at site walk. The church members are familiar with the site and visit regularly. He feels the only real overflow concern is Tuesday evening. No shading or fencing will address that point and it is a question of that is open for review by the BZA. Technically this proposal is for an expansion and asked for board members thought.

Mr. Russell feels there is a complete lack of signage and that the existing signs are tiny. Mr. Berry understands the neighbors desire to limit additional signs. Mr. Meyer feels the major problems aren't parking but traffic, glare and drainage. He suggested a condition of no daycare use. He is pleased the applicant has gone to great lengths to address neighbors concerns regarding parking. It is still a problem until vegetation grows and he does feel a fence is appropriate but a temporary one is okay. Mr. Meyer would like to encourage greater use of the Route 88 entrance by multiple means. The goal isn't to force all cars onto Route 88 but to try for greater proportions. The drainage is a problem and should be identified as

an item the Planning Board needs to address. The goal is to avoid increasing the drainage burden on the small culvert in the street. He reiterated his feeling that a condition regarding the restriction on daycare use is appropriate.

Mr. Berry felt that traffic and drainage can be treated similarly by conditioning the planning board address. The approval is under condition that site is still reviewed by planning board and an approval can highlight issues raised that are left to the planning board to address. On street parking is still an issue to be resolved.

Motion: Mr. Meyer made a motion for approval of the application subject to the following conditions:

1. An attractive fence suitable for screening headlights is to be installed along the parking lot. The fence is to remain in place for not less than five years and until a reasonable vegetative buffer is established.
2. Either a one-way entrance on Waite's Landing shall be established, or other measures (e.g., signage or speed bumps) shall be taken to encourage increased use of the Route 88 access.
3. The planning board will review concerns about drainage, with the goal of avoiding any increase in the existing drainage burden.
4. No daycare use is permitted

Mr. Russell seconded the motion.

Vote: Yea - Unanimous.

219 US RT 1, ESW Realty LLC - Administrative Appeal for misinterpretation of the ordinance for a sign permit. Parcel U11-033-A, zoned SB.

This item was taken up concurrently with the following agenda item.

65 Gray Rd, Kimco Realty LLC - Administrative Appeal for misinterpretation of the ordinance for a sign permit. Parcel R05-044-004. Zoned WFCMPDD.

These two items were taken up together with Brain Rayback of Pierce Atwood present and speaking on behalf of both applicants. He noted that Kimco and ESW Realty both own a Dunkin Donuts.

At the site on Route One the applicant would like to replace a manual reader board with an electronic reader board. The business at West Falmouth crossing has the same request with different sign specific details. Mr. Rayback's clients each received a letter denying sign permits and his clients feel the CEO determination is incorrect.

The sign requested is modified from inside the building and has more flexibility than a manual reader board in terms of level of lighting. The proposal doesn't include flashing message, crawling type, or multiple colors. The new technology avoids manual changing of letters by employees using a pole in the parking lot out in the elements and may address certain safety issues that can be considered by that activity.

Mr. Rayback asked the Board to overturn the CEO determination that the electronic reader boards aren't permitted which would allow his clients to move forward with application to the Planning Board.

The board asked Justin Brown to speak to the item. Mr. Brown noted that a sign is usually static. Moving signs are prohibited under the ordinance in his formal interpretation and application of the ordinance as CEO.

Mr. Meyer asked about section 5.1.9 regarding allowable hours for illuminated signage. He asked if this provision applies and Mr. Brown responded yes. Mr. Meyer asked if the sign is lit but static does that comply with the ordinance.

Mr. Berry asked if denial is based on potential for a sign to have moving lettering. Mr. Brown responded yes. A manual reader board can be changed several times a day but not ongoing as the ordinance disallows. What did he Brown deny?

Mr. Brown stated that he denied a sign permit application specifically.

Mr. Russell stated he feels that this type of sign can be allowed under the ordinance with a condition that text doesn't change more than once a day.

Mr. Berry spoke to an approved sign plan by the planning board in relation to the overlay/contract district in which one of the properties is located. He is interested in knowing if this information is available and if it addresses this type of sign.

Mr. Meyer suggested only dealing with the issue directly before them which is 5.1.3.

Mr. Rayback agreed that the board should narrow a response to the specific request that is being appealed which is in reference to section 5.1.3.

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

Mr. Russell felt the reading by staff was too strict and the decision should be overturned. He noted that the applicant's intent is clear and if they are willing to change lettering only once a day than it should be considered stagnant. It appears the ordinance was thought out before the technology for this type of signage was created.

Mr. Israel agreed that the board should only consider 5.1.3.d and with Mr. Russell's comments and moved that the denial be rescinded.

Mr. Meyer stated that without assurance that the sign wouldn't have moving lettering he wouldn't agree but that the sign proposed is for static lettering and that does meet the stated requirements of the ordinance. He noted that the board must make a finding of fact that included that the sign is not going to have moving illumination, no flashing, no moving parts, and not to be changed more than once a day.

Mr. Berry suggested an additional finding that each sign would include an internal photo sensor that it would automatically dim in the evening to avoid glare issues.

Motion: Mr. Russell made a motion to overturn the interpretation of the ordinance pertaining to both applications. Mr. Berry seconded the motion.

Vote: Yea – unanimous.

Mr. Meyer offered the following findings per representation of applicant.

1. The signs will not have moving letters, animation or other non static illumination.
2. The lettering will be changed not more than once per day.
3. Each sign will have an integrated photo sensor that will adapt to changing light levels to avoid glare.

Motion: Mr. Berry moved to approve the findings. Mr. Russell seconded the motion.

Vote: Yea – Unanimous.

39 Seaside Way. Craig Ewald, Conditional Use under Section 5.22.1 for an Accessory Dwelling. Parcel U18-048, zoned RA

Edward Brooks was present and spoke to the application. He is Craig's father in law. Mr. Brooks represented that he is present with the knowledge and permission of the applicant as agent for this application. The applicant is in Florida and cannot attend. Mr. Brooks will be residing in the dwelling unit if approved.

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

Mr. Berry had no questions.

Mr. Keeler asked Mr. Brown is there was a plot plan submitted. Mr. Brown indicated a plot plan is in the packet. The project went to the Planning Board last month to approve a lot line adjustment so that the structure can meet setback requirements. The Plan was discussed.

Mr. Keeler asked if the property meets ordinance requirement pertaining to septic and Mr. Brown responded that the property is on public sewer. Mr. Keeler asked about the design of the application in regard to square footage. Is the workshop and garage counted toward calculation? Mr. Brown responded no.

Mr. Keeler asked the applicant if the workshop in the basement consists of tools and carpentry to which Mr. Brooks responded yes. The garage and workshop will be heated.

Mr. Israel asked for clarification on the square footage. It is represented as 927 square feet. Mr. Brooks responded that is being scaled down to 850 square feet.

Members expressed a desire to have a full plot plan/information to be able to calculate square footage.

Mr. Meyer stated that he feels the calculation meets the requirement if the workshop is excluded. It would be nice to see the detail which is called for by the ordinance.

Mrs. Brooks was present and spoke to the question of what the workshop consists of. She indicated that the workshop is simply a place for Mr. Brooks to keep his tools for novice use. It is not a commercial workshop.

Mr. Brown indicated that the space is unfinished workspace not finished living space. He excluded this area which is not different than a garage or unfinished basement.

Mr. Berry stated that he would ordinarily agree that the plans submitted are not in keeping with what the ordinance calls for. He noted that the applicant has already been to the Planning Board for a lot line adjustment and that the CAD plans are being modified to accommodate the 850 square foot maximum allowance. He supports approval conditioned on a full plan is submitted to the CEO for issuance of a building permit and it is confirmed at that time that the maximum square footage is not exceeded.

Mr. Keeler would like to see a condition that the workshop remains unfinished to coincide with the definition. He is a little uncomfortable with a finding that the sketch meets the plan/survey requirement. He is not concerned with facts of this particular application but about creating a precedent regarding submittal of information and the application being deemed complete.

Mr. Berry feels comfortable making an exception in this instance due to the specific project and that it has already been to the Planning Board which deemed that enough information was available to make a decision regarding the lot line adjustment.

Mr. Meyer agreed with Mr. Keeler regarding placing a condition on the workshop in relationship to finished space. It must remain unfinished and confirmation must be obtained that the 850 square feet is not exceeded.

Continued discussion about the status of application completeness ensued.

Motion: Mr. Keeler made a motion to approve the application with conditions that The entire 1st floor and garage workshop remain unfinished space, the CEO confirm a maximum of 850 square feet living space at the time of a building permit application, and a plot plan is submitted. The motion was seconded by Mr. Russell.

Vote: Yea – Unanimous.

60 Woods Rd. Falmouth Historical Society, Conditional Use under Section 8.3 for public access to the Barn. Parcel R03-039-001, zoned FF.

Rod Duckworth of 16 Cavendish Road was present and spoke on behalf of the historical society who is requesting permission to open the existing barn year to the public. The barn has been requested to be utilized by multiple members of the public to store antiques and the society would like to make them available for viewing to the public.

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

Mr. Russell asked if the Planning Board needs to review this and it was clarified that they are on the agenda for next week. Mr. Brown confirmed that this is due to the need to review/create parking.

Mr. Duckworth stated that the facility will never be open at night or during the winter. The parking need is for summer use. Proposed hours of use are 10am to 2pm.

Mr. Russell asked what type of items will be on display. Mr. Duckworth noted a few such as an old fire truck, dairy wagon, and child's pony pull. Smaller items will be in the main building such as glassware, photos, etc. All items are pertinent to the history of Falmouth.

Mr. Duckworth stated the organization wants to open June 23rd and to dedicate the barn. Tours will be available by appointment. Dedicated tours are for families or groups. More parking is needed for existing programming. Parking demand will not increase by the proposed scheduled tours. The stairs going up to the second floor are existing and don't meet ADA requirements. The area will be cordoned off with no entry from the public to address that this year and will be for storage until a ramp can be built at some time in the future (potential). The applicant is asking the Board to remove the current restriction that the barn not be open for access to the public for the first floor only at this time. The project also includes some grading for a ramp for ADA access to the first floor. He noted that an elevator to second floor is cost prohibitive.

Mr. Keeler asked for dimensions of barn to which Mr. Duckworth responded 24'x36' and that the drawing in the application is to scale.

Mr. Berry recalled the applicant was at the board about this time last year. At that time funding was time sensitive and no public access was presented in order to move the approval forward.

Mr. Keeler asked Mr. Brown who takes care of safety and electrical issues to which he responded himself and sometimes in conjunction with fire department. Mr. Keeler asked if the building requirements for public access are much different than non public. Mr. Brown stated that it is easily convertible and that he oversees that process and permitting.

Motion: Mr. Keeler made a motion to approve the application. Mr. Berry seconded the motion.

Vote: Yea – Unanimous.

6 Riverside Dr. Adam Rosenbaum representing George Young. Conditional Use under Section 6.11 for additions. Parcel U01-179, zoned RA.

Dr. Rosenbaum was present to speak to the application. He referred to application materials and asked if there were any questions of the board.

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

Mr. Israel and Mr. Russell had no questions.

Mr. Keeler asked about the measurement of the shoreline setback as represented on the plan and indicated that the numbers look reasonable to him. Mr. Brown confirmed that upon examining the information presented the applicant appears to meet minimum standards.

Mr. Meyer recommended using a surveyor to confirm the drip edge location in relation to the 20' setback so that a mislocated building isn't created (or a violation).

Motion: Mr. Russell made a motion to approve the application. Mr. Keeler seconded the motion.

Vote: Yea - Unanimous

190 US RT1. David Dube, representing Ocean Community Church-Conditional Use under Section 8.3 for a Church. Parcel U51-006, zoned SB.

David Dube was present on behalf of the application and gave an overview of the project.

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

Mr. Russell asked for clarification on the location of the property and the applicant responded.

Mr. Israel asked for confirmation that the applicant is seeking a one year lease to which the applicant responded yes. He also asked for confirmation that currently occupancy is currently 25 and he is looking to increase to 95 or 100.

Mr. Meyer asked Mr. Brown if a condition is necessary or appropriate for maximum occupancy. Mr. Brown responded that given the assembly area the applicant is right about where they should be. If they get to a point to where they trigger site plan approval there would be a change. The Fire Chief sometimes posts for maximum occupancy but he Brown doesn't generally do this. The state may have a different level but he is not aware.

Mr. Keeler asked Mr. Brown if the only reason the applicant is before the board is for conditional use and not any aspect of the lot which Mr. Brown affirmed. The only consideration is the use.

Motion: Mr. Keeler made a motion to approve the application. Mr. Berry seconded the motion.

Vote: Yea - Unanimous

30 Kelley Rd. The Boathouse Rox, LLC- Conditional Use under section 6.11 for an expansion. Parcel U01-215-D, zoned RA.

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Mr. Keeler noted to the board that he does have an affiliation with the Boathouse but does not find it necessary to recuse himself from considering the merits of the application.

Roxanne Cole represented the application. She suggested the project is an enhancement to the neighborhood.

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

Mr. Berry thanked the applicant for submitting a well put together and complete application.

Mr. Keeler asked about the dimensional calculations and the applicant reviewed some exhibits in the application for clarification. The total increase is 28%.

Mr. Keeler asked how a deck is considered in regards to volume. Mr. Brown indicated this is not considered volume and has been confirmed by the MDEP.

Mr. Israel thanked the applicant for the level of professionalism and valuable information included in the packet materials.

Mr. Meyer noted that the plot plan doesn't have a great amount of detail but there is enough to make a determination in regard to the ordinance.

Motion: Mr. Berry made a motion to approve the application. Mr. Israel seconded the motion.

Vote: Yea - Unanimous

110 Field Rd, Elisabeth Sperry-Conditional Use under Section 5.22.1 for an Accessory Dwelling Parcel R03-076, zoned FF.

Ms. Sperry opted to leave earlier in the evening due to the length of the agenda and the application was tabled.

The meeting adjourned at 10:48 pm.

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.*