Zoning Board of Appeals  
Virtual Meeting – Town Hall  
Minutes of January 7, 2021 at 6:00PM  
Zoning Administrator: Noreen Stockman  
Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

This meeting was held on the Zoom virtual meeting software for remote access, due to the Governor’s order suspending public assemblies, during the declared novel corona virus (Covid 19) emergency. The meeting was taped by Falmouth Cable TV, in accordance with long-standing practices.

All votes of the Board were taken by roll call.

**Public Comment - None**

**Continuation - #055-20 RLBE, LLC – Rebecca Ann Lane (lot 2), East Falmouth** – Comprehensive Permit requested to construct 5 duplex buildings, totaling 10 units; 3 units to be affordable

Voting Members: Hurrie, Foreman, Dugan, Zylinski, Barry

**Hurrie** – The Applicant will be asking for a continuation as they are working on getting plans and the requested information together.

**Mirrione** – We wanted to discuss a few things with the Board and bring you up to date before continuing. We wanted to talk about the trees and not having to mark all of them, they will be marked on the plan. We are working on getting a zoning opinion that the lots haven’t merged that was requested by Mr. Dugan. We also want to discuss the comments that keeps coming up about changing the access points in our parking plan. We’ve looked at that and the design just doesn’t work for us. It’s more paving, and more uncomfortable parking. We think it’s a lousier look. We keep looking at ways to deal with it because it keeps coming up so we wanted to get the Board’s input.

**Dugan** – You have asked for a continuance and once it’s granted we don’t discuss it. You haven’t submitted the information that has been requested. I don’t think we can discuss the project tonight.

**Hurrie** – I think it would be cleaner not to take testimony and vote the continuation.

Dugan made a motion to continue to March 25, 2021. Zylinski seconded the motion. Motion carried 5-0.

**Roll Call Vote:** Hurrie – Aye, Foreman – Aye. Dugan – Aye, Van Keuren – Aye, Zylinski – Aye, Barry – Aye, Morse - Aye

All in favor.

Took a 5 minute break at 7:12 PM.
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Zoning Board of Appeals
Virtual Meeting – Town Hall
Minutes of January 7, 2021 at 6:00PM
Zoning Administrator: Noreen Stockman

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

Continuation #036-20 Wings Pond LLC, 63 North Falmouth Highway, No. Falmouth – Comprehensive Permit requested to construct 6 duplex buildings, totaling 12 units; 3 units will be affordable

Voting Members: Hurrie, Foreman, Dugan, Van Keuren, Zylinski

Hurrie – My plan for this hearing is to briefly hear from Mr. Mirrione and the staff from Conservation. The Applicants are planning on asking for a continuation due to revisions with the plans. If Mr. Mirrione is in agreement, we would ask that you execute an extension, and the additional time would be added onto the 180 days.

Mirrione – I would be in agreement.

Zylinski – Is this an open meeting?

Hurrie – Yes it is, but it will just be a brief summary / update, and the Conservation Agent will speak; then we will continue because there’s not much to discuss.

Mirrione – We’ve made some revisions to the plans based on the wetland consultant at BSC and we think that this may be better for both sides. We are looking at moving the road, to swap it with the septic system, but the leaching filed would be too big for that area. We are also thinking about dropping the units back to 8 with 3 bedrooms. It gets 2 buildings completely out of the buffer zone, and one building that is slightly in the buffer. If we can do that, will be able to get the waiver from Conservation that we would need under the Falmouth’s Wetlands Regulations and Bylaws? We need the extra time to revise the plans and changes and address almost all of the concerns and comments that the Board has had.

Mark Kasprzyk, Conservation Agent – We’ve looked at the memo that BSC submitted. The bottom line is that there is a vernal pool, and the wetland resource area can’t be protected by the current design. The changes that would help the project would be to move units 1a and 1b and units 2a and 2b. There’s not enough room in that location to protect the buffer zone to the vernal pool. It would be great if units 3a and 3b could be pulled back to somewhat get that out of that buffer zone, away from the slope. If those units were pulled out, there would be more room for the leaching field. The roadway could go against the property line, or have the leach field further away, and have the road come along the north side of the leach field. I think those changes would work really well if that’s a possibility.

Dugan – Mr. Mirrione eluded to moving buildings one and two, but there is still building #3 that would be in the buffer. From your discussion, I would assume that it would be best to keep everything out of the buffer because there’s too much of a chance that anything in that buffer is going to cause some kind of damage. Is that correct?

Kasprzyk – Yes, they should be removed out of the buffer. It’s pointed out in the notes that units 3a and 3b should be removed out of the buffer zone, or minimally pulled out to be as far away from the vernal pool as you can get. I don’t know if that’s possible.

Dugan – I think we need to make that clear to the applicant tonight that we want nothing in the buffer area.
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Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

Jennifer Lincoln, Conservation Administrator – I am in agreement with BSC Group and Kasparyk’s assessment. Any time you can pull structures out of the buffer zone, it will help water quality and wildlife habitats. It also protects the wildlife that uses the pool, because they come out of that pool in the wintertime, go into the upland areas, and overwinter there. Anyway we can pull those structures and those units out of that buffer zone would give that wildlife a better chance of surviving.

Foreman – I commend Mr. Mirrione for pulling those units out. If we go with the new plan of all 3 bedrooms how many 2 bedrooms units will be lost?

Mirrione – Two.

Foreman – Will the units be larger?

Mirrione – No, same footprint.

Zylinski – Do you suspect that you will run into time challenges? We have had some issues getting plans and documents in on time.

Mirrione – Everything will be completed by the continuation date of March 25th.

Zylinski – That includes financial adjustment too?

Mirrione – Yes, completely revised application, waiver requests and drawings.

**Public Comment** - None

Stockman – Is there anything that needs to be managed with the proposed fill being brought in?

Lincoln – I didn’t look at that aspect of the plan.

Zylinski – I think it’s around 35,000 yards.

Lincoln – We can take a look at that, and offer the Board some comments prior to the next meeting.

Kasparyk – If some of those units go away, the area of the 3rd unit goes up and then down, you could add a lot of fill there, without having much of an impact.

Hurrie – We are looking for all structures to be outside of the buffer zone.

Dugan – Make sure that everyone in your design team is in attendance for the 25th.

Mirrione – We don’t think that we can get all of the buildings out of the buffer zone; we can get 2. I may have overestimated the amount of fill; it may be more around 25,000 yards. We think we can mitigate the 3rd building so it can be slightly in the buffer zone.

Hurrie – Is that permissible under the Falmouth Wetlands guidelines?

Lincoln – How far would you be able to pull that back? Would it be in the same location, or would you pull it further back when buildings 1 and 2 are removed?
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Mirrione – We are rotating it, so that more of the building along that back would be in the buffer zone, but less depth of the building would be in it. We aren’t sure how many square feet will be saved. We are trying to get the building as far out as we can, but we don’t think we can get it out entirely.

Lincoln – You can’t shift the building landward? It is a big site.

Mirrione – I don’t think we can because it’s affected by the turn around that we need; I don’t know what’s going to be left in there.

Lincoln – I would like to see how Mr. Mirrione’s project is shifting before giving an opinion.

Hurrie – Do you think that would be permissible from the Commission to allow this sort of thing?

Lincoln – We do like to see structures to be pulled out. If there is get that unit out of there, that would be ideal. It’s great that the first two units are out of there.

Zylinski – Have you seen any issues be subject to a denial because of something like this?

Lincoln – I have seen this from a Conservation standpoint, not ZBA. If Mr. Mirrione can just provide the small section showing where that pool is, and the septic system, we can get a response quicker.

Foreman – Are you envisioning a cul-de-sac turn around?

Mirrione – We don’t think we can get a cul-de-sac in there; we were going with a hammerhead design which is currently there.

Dugan – It would be best if everything was kept outside the buffer. If it is a situation that you don’t think the structure can be taken fully out, we want documentation as to why it can’t be done. You can’t just say it can’t be done, you need to prove why.

Dugan made a motion to continue to March 25, 2021. Foreman seconded the motion. Motion carried 5-0.


All in favor.

Dugan made a motion to take #076-20 out of order to hear first. Zylinski seconded the motion. Motion carried 7-0.


All in favor.
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| Copy of comments by MP Housing | 6/18/20 |  |
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| Checklist for stormwater | 6/20/20 |  |
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| NHESQ program | 7/8/20 |  |
| 310 CMR 15.00 | 7/8/20 |  |
| Email - M. Casperge (10.2) | 7/8/20 |  |
| Memo Conservation (10.24) | 7/8/20 |  |
| Email S. McGraw (10.2) | 7/8/20 |  |
| Reference - Email S & R | 7/9/20 |  |
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Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse
#076-20 Crooked Meadow LLC, 26, 30, 36 & 40 Crooked Meadow Road, Hatchville - Modification of
Comprehensive Permit to allow modifications to previously approved plans

Voting Members: Hurrie, Foreman, Dugan, Zylinski, Van Keuren

Dugan read the ‘Notice of Public Hearing’ into the record and read conditions #19 and #37 that were
deemed substantial.

No referrals were submitted.

Correspondence – none

Board Discussion –

Dugan – We previously met on this, where we voted that these requests were substantial. The two
items that were deemed substantial were conditions #19 and #37 from the original decision. Condition
#19 is in regards to the vertical curbing, and the Applicant is requesting to install a Cape Cod berm
instead. Condition #37 is in regards to the affordable units not having to pay 3 months worth of
homeowner’s association fees up front; at the time of closing, they would only need to pay 1 month.
They are asking that the affordable homeowners pay 3 months in advance.

Stockman – The vertical curbing was a recommendation from Engineering from a safety standpoint, as
there were will most likely be children within the development.

Nick Mirrione, representative for Applicant – We don’t have any problem with the Board’s decision on
the curbing. We do feel it’s easier for the buyers of the affordable units to come up with the money at
the time of closing, than it is to try and get it from them at a later date.

Zylinski – Was it a price difference between the Cape Cod berm and the vertical as to why you are
requesting this?

Mirrione – It was a combination of price and the physical impact when contacting a vertical curbing. If
the Board wants the curbing to remain, we will give it to them; it’s only a few thousand dollars
difference.

Zylinski – What was the difference in price?

Mirrione – A few thousand dollars.

Dugan – Is the prepayment of the three month condominium fee a one-time fee, or will it take place
each time something is transferred?

Mirrione – It’s a one-time payment for them. When the unit is sold, the new buyer would pay the same
three month advance fee.

Dugan – So there will be a reoccurring payment as things are transferred over time.

Mirrione – Correct.
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Foreman – I do favor the vertical curbing, I wouldn’t want people to pull off and park on the side walk, and it’s safer for pedestrian use.

Van Keuren – I think we need to have the curbing.

Public Comment - none

Dugan – I don’t have an issue with the curbing; I think it should stay as a vertical curbing for the safety factor. The prepayment of condo fees are going to be reoccurring every time there is a transfer. The new buyer is going to have to pay 3 months in advance. It does put a burden on the affordable homeowners to have to pay that upfront. I think they should pay a monthly fee rather than a lump sum. I’d rather see it remain that the affordable owner pays per month. I would strike the part of the condition that says the developer has to fund the first 3 months of the condo fees.

Foreman – What was the reasoning for having them pay it upfront?

Dugan – I was told it would only be a onetime payment, but now this fee will be charged every time there is a transfer.

Foreman – I agree that having to come up with the extra payment would be burdensome.

Hurrie – Is this something that is standard with a condo association in 40B’s?

Mirrione – It is. The point is to collect a reserve, in the event that that person falls behind in condo fees. In that event, the fees due would be drawn from the reserve.

Hurrie – Do the affordable owners have trouble getting the 3 months advance fees, in your experience?

Mirrione – I find it’s much easier at closing. It’s a minimal down payment.

Zylinski – It’s a small thing to ask to not have them pay the 3 months upfront.

Dugan – What’s the projected monthly fee?

Mirrione – $192.50.

Dugan – When you’re basing the $192.50 on the condo fees, how does that work out on your projected annual budgets? Are they covering just their expenses for the complex, or are they having money left to put into a reserve?

Mirrione – There is a reserve which will pay for anything that is common throughout the association. There’s a reserve for the septic system and fixed elements; anything that the association is responsible for.

Dugan – On your projected annual operating budget from the condo fees coming in, what remainder of that are you projecting per year that would be available to go into a reserve fund, or are you just covering the expenses?
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Mirrione – We have 3 reserve funds. I don’t have the budget but there is quite a bit in each budget. We look at the projected life of the fixed elements.

Stockman – When an affordable homeowner has to pay up front, do the advance condo fees back when they sell?

Mirrione – I have seen it done both ways; if they are paid up by the time they sell, they would get it back.

Dugan - Have you submitted condo docs?

Mirrione – No, we are working on them now.

Dugan – Are you planning on reimbursing the prior owner on a new purchase?

Mirrione – If they pay their condo fees on time, they get refunded on sale and the new person replaces their reserve. If there are any expenses at the time of selling the units, it would come out of that reserve; if there is any money left over, they would get what’s left.

Dugan – There is always a reimbursement at the time of closing, I’m confused that you aren’t sure how you will format the condo docs. I’m surprised that you don’t have a draft.

Mirrione – They have not been submitted. They are drafted and do say a 3 month reserve, but we can’t finalize the condo documents until we get the okay from this Board. We are working on final approval. I just need an answer tonight, whatever it is, we will live with it.

Dugan – On the part that you have written for the market units, does it say the 3 months reserve gets refunded at closing?

Mirrione – It’s the same as the affordable units; if they are paid up on fees, they get the whole amount back. If there is a delinquent amount, it gets pulled from there, and if there is any money left over, they will get that at closing.

Dugan – I haven’t heard before where there is a 3 month payment and that money wouldn’t be reimbursed when the unit is transferred.

Foreman – Is there a particular reason that the condo documents have to be the same for all units?

Barry – My experience is that to ask them to put up that amount of money in advance and to expect it to come from a gift from family is not a fair way to approach this. They generally have a hard time to make monthly regular payments; it’s an onerous thing to ask.

Zylinski made a motion to close the hearing. Foreman seconded the motion. Motion carried 5-0.

Dugan made a motion that condition #19 should remain as is, and the affordable units referenced in condition #37 should pay monthly, with the 2nd sentence being eliminated, regarding the developer funding the reserve account. Zylinski seconded the motion. Motion carried 5-0.


All in favor.
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Zoning Administrator: Noreen Stockman

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

#065-20 Ralph, Trustee, 318 Shorewood Drive, East Falmouth – special permit requested to construct a 2nd floor addition

Voting Members: Hurrie, Foreman, Dugan, Van Keuren, Zylinski

Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:

Water - The existing water service is 3/4” and should be upgraded to a 1” service line

Engineering – standard comments

Planning – no comment

Assessors – no comments

Fire – The Fire Department has no issues with the project as drawn

Conservation - I recommend that applicant files a Request for Determination of Applicability with the Conservation Department. The project is located within the flood zone and similar projects have required filing an RDA with the Commission.

Health - Property assessed at 3 bedrooms. Health does not have any septic information on file indication the septic system is most likely pre 1978. With the lack of information, the Health Department typically defaults to the assessment / what currently exists. The existing older system is not allowed to have an increase in flow (more bedrooms); revised comments - 1 bedroom is being proposed in the new second floor, is not an increase in flow/bedroom count as the 2nd bedroom on the first floor is proposed to be opened up to the rest of the house via a cased opening. Health has no issue with this project.

Correspondence – 2 letters of support

Kevin Klauser, attorney for Applicant – The applicant is seeking permission to add a second floor to the existing dwelling. The Lot is 10,400s/f within the residential B zoning district. It’s a 2 bedroom single family dwelling with a footprint of about 2,700s/f. The property is nonconforming to the front yard setback to Sandpiper Circle at 23.5’, nonconforming to the southerly side yard setback at 8’ and it’s nonconforming to lot coverage by structures at 27%. The applicants have owned the property for about 20 years. They are seeking to add a second floor over a portion of the existing house and enclose a small existing overhang. There will be no signification impact on the footprint and the lot coverage by structures will slightly decrease to 26.5%. The number of bedrooms will remain the same. The property is located within the AE12 flood zone and we did submit an independent appraisal, FEMA worksheet and a letter from a structural engineer. Klauser stated project meets criteria of 240-216, 240-3 C. and 240-69 E. We did submit a lot coverage comparison worksheet showing 32 nearby properties, of those properties this does have one of the largest footprints, but 21 house have a larger first floor area.

Board Discussion –

Van Keuren – It looks like it will be an improvement to the area.

Dugan – Is this a 3 bedroom?
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Klauer – It exists as 2, and is proposed as two. The proposed plans originally showed a third bedroom, but that was removed to reflect an office on the first floor.

Zylinski – It looks like they are extending the 1st floor to support the second floor on the architectural plans. Would that constitute any work on the first floor?

Klauer – There is work that is occurring on the 1st floor, but it is my understanding is that the 1st floor square footage is not being increased.

Zylinski – It looks like they are extending the 1st floor to be able to support the second floor.

Klauer – The 1st floor remains the same but they are putting in foundation footings for the porch and the small area to the left of the deck will be enclosed, but it is my understanding that the 1st floor square footage is not being increased.

Warren Reid, contractor – In regard to the front of the house there is a 7’ x 13 1/2‘ foundation being put in under where the roof overhang is, nothing encroaches. The existing footprint is a small frost wall. In front of that are the footings for the front porch. The front door is sideways on the house, so we want to fill that in, so the front of the house is straight. Then put the front porch on, and make that front door face Shorewood Drive.

SZ- Are you adding floor joists to the frost wall?

Warren Reid – Yes, underneath.

Zylinski – I want to know what supports that wall now if it’s not being extended.

Reid – It looks like it goes across the front of the house, but it doesn’t. It stops 14’ in from the front left corner.

Zylinski – When I did my site visit, there were 2 stakes that came out 5-6’ off of the house, and it said proposed addition, not porch. I was curious as to what supported that area now.

Reid – The frost wall goes across from where the front door exists now.

Zylinski – The portion that is 16’ x 5’ will be enclosed?

Reid – Correct.

Zylinski – What does that add to the square footage?

Reid – It’s about 91s/f.

Klauer – The net result is a decrease in square footage, which is why lot coverage is being decreased.

Zylinski – Is that additional 91s/f calculated on the site plan?

Klauer – That’s correct.
Zoning Board of Appeals
Virtual Meeting – Town Hall
Minutes of January 7, 2021 at 6:00PM
Zoning Administrator: Noreen Stockman
Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

Public Comment – None

Foreman made a motion to close the hearing. Van Keuren seconded the motion. Motion carried 5-0.


Dugan made a motion to approve #065-20. Zylinski seconded the motion. Motion carried 5-0.

Findings:

1) Meets criteria of 240-3C., 240-69 E. and 240-216
2) Property located within the Great Pond Coastal Pond Overlay
3) Located within AE12 flood zone
4) Lot coverage by structures will be slightly improved from 27% - 26.5%
5) Removing a portion of existing deck and shed will be removed
6) 2 bedrooms
7) Nonconformities to front yard setback off of Sandpiper Circle at 23.5’, nonconforming to the southerly side yard setback at 8’ and nonconforming to lot coverage by structures at 27%
8) Received letter from Structural Engineer
9) Received copy of appraisal
10) Received FEMA worksheet
11) Received lot coverage worksheet; lot coverage calculations falls within surrounding area

Conditions:

1) Comply with Water Department referral
2) Comply with Engineering referral
3) Shed not to be replaced
4) Per plans


All in favor.
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Zoning Board of Appeals  
Virtual Meeting – Town Hall  
Minutes of January 7, 2021 at 6:00PM  
Zoning Administrator: Noreen Stockman  

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

#066-20 Burnham, 8 Worcester Court, Falmouth – special permit requested to construct dormers and addition to connection to accessory structure; increasing lot coverage by structures

Voting Members: Hurrie, Foreman, Dugan, Van Keuren, Zylinski

Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:

Assessors – Includes lot 8 & ¼ of Lot 10

Water – no comment

Planning – no comment

Fire – The Fire Department has no issued with the project as drawn

Engineering – standard comments

Health – comments regarding existing septic system, septic system is suitable for proposed project

Correspondence - none

Kevin Klauer, attorney for Applicants – The owners are seeking permission to make an addition to the dwelling, enclosing the connecting the breezeway between the garage and dwelling. The property is 8,040s/f and located within a Residential C zoning district. The current dwelling is a 1.5 story with a semidetached structure, and a combined footprint of just over 2,000 s/f. The property is nonconforming to the front yard setback at 11.8’, side yard setback is 7.9’ and lot coverage by structures is 23.0%. The Applicants purchased this property about 2 years ago and would like to make it their full time residence. An addition is proposed to close in the breezeway in order to connect and combine the dwelling and accessory structure; a dormer will be added to the front of the house to improve those spaces upstairs. There is also a request for a future shed, due to the limited basement space but the lot coverage is factored in. The nonconformities won’t be impacted, there is a decrease in the number of bedrooms from 6-5 bedrooms, and no change to the ridge height of 21’10”. Lot coverage by structures will increase to 24.9%. We submitted a lot coverage worksheet with 42 surrounding properties, 25 homes had a larger gross floor area and 9 had larger footprints. This will be a significant improvement to the property and this increases utilization. Klauer stated project meets the criteria of 240-3 C, 240-69 E. and 240-216.

Board Discussion –

Dugan – I know a previous owner had put a kitchen in the detached garage; was a permit pulled for that?

Klauer – I’m not sure but there is no kitchen there now. We are seeking to combine the structures so it will end up being one.

Donald Burnham, property owner – The guest house does have a kitchenette, with cabinets with a sink, there is no stove. I don’t know if permits were previously pulled, that project was completed in 2016. Our purpose for this renovation is to make it more useful.
Zoning Board of Appeals  
Virtual Meeting – Town Hall  
Minutes of January 7, 2021 at 6:00PM  
Zoning Administrator: Noreen Stockman  

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse  

Foreman – There is a proposed future shed on the plan will take you over the 24.9%, or is it included in that number?  

Klauer – The shed is included in the 24.9%  

Zylinski – The plans say you are doing away with the bulkhead.  

Klauer – Yes, there will be a floor hatch in the mudroom.  

Dugan – There has been past use as a separate unit. We have done deed restrictions in the past. I think the Board should consider a deed restriction on the property.  

Burnham – The guest house had been rented separately but our intention is to integrate them. I would be in favor of the restriction.  

Zylinski made a motion to close the hearing. Dugan seconded the motion. Motion carried 5-0.  


Dugan made a motion to approved application #066-20. Zylinski seconded the motion. Motion carried 5-0.  

Public Comment – none  

Findings:  

1) Received referral from Health Agent  
2) Property to remain a single-family dwelling  
3) Garage will be integrated into the existing dwelling  
4) Proposed future 100 sf shed included in lot coverage totals  
5) Meets criteria of 240-3 C. 240-69 E. and 240-216  
6) Property nonconforming to front yard setback of 11.8’, side yard setback or 7.9’ and lot coverage by structures is 23.0%.  
7) Increase in lot coverage from 23-24.9%  
8) Bedroom count will be decreased from 6-5  
9) No objections to a deed restriction  
10) New owner was aware that garage was previously used as a rental  
11) Per testimony only a kitchenette with cabinets and a sink are in the garage; no stove  
12) Submitted lot coverage comparison worksheet – within area  

Conditions:  

1) Comply with Engineering referral  
2) Deed restriction to remain single-family dwelling  
3) No cooking facilities in garage space
Zoning Board of Appeals  
Virtual Meeting – Town Hall  
Minutes of January 7, 2021 at 6:00PM  
Zoning Administrator: Noreen Stockman  
Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse  

4) 100s/f shed would be allowed in the future, nothing larger  
5) As built to be submitted  
6) Per plans  
7) Keep construction equipment and materials on site, no parking on public ways  


All in favor.
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Zoning Board of Appeals
Virtual Meeting – Town Hall
Minutes of January 7, 2021 at 6:00PM
Zoning Administrator: Noreen Stockman

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

#067-20 Karle, Trustee, 44 Grand Avenue, Falmouth – special permit request to raze and reconstruct the existing dwelling and detached garage, adding living space above

Voting Members: Hurrie, Foreman, Dugan, Van Keuren, Zylinski

Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:

Assessors - Includes lots 11 and part of 109

Planning - The Applicant filed a Request for Demolition application to get a waiver from the 1 year demo delay bylaw. They are scheduled for the 12/7/20 HC Agenda – received demo delay waiver

Engineering – standard comments, obtain driveway permit, comply with soil erosion and sediment control standards, comply with section 99-1

Health – current bedroom count is 4, proposed bedroom count is 5, current septic is sized for a 5 bedroom, this would be sufficient as reserve area is shown on plans

Correspondence - None

Kevin Klauer, Attorney for Applicant – The Applicant is seeking permission to raze and rebuild the existing nonconforming dwelling and garage. This property is located in Falmouth Heights on a lot of 6,455sf in a Residential C zoning district and it is in an AE 12 flood zone. The lot contains a 1.5 story, 4 bedroom single-family dwelling with a detached garage and a total footprint of 1,655sf. These structures are nonconforming to the front yard setback of 18.3’, side yard at 5.2’ on the West and 3.2’ on the East side and the rear yard setback to the garage is 7.9’. Lot coverage is nonconforming at 25.6%. The applicant’s family has owned this for over 20 years and is in need of significant repairs. The proposed structure would comply with flood zone standards. All habitable space and mechanicals will be 1’ above flood elevation at elevation 13. A new 4-bedroom dwelling is proposed with a detached garage and living space above; the proposed ridge height is 25’11”, and a new 5-bedroom septic is proposed. The nonconformities will either be eliminated or improved. The front yard encroachment will be eliminated, the side yard setback will be improved, the rear yard setback from the garage will be eliminated and the lot coverage by structures will be decreased to 25%. The area above the garage is living space and will have no cooking facilities. It is not proposed to be an accessory apartment. I have discussed a deed restriction with my client, and she would be amenable to one. Klauer stated project meets criteria of 240-3 C. and 240-216. We will be at 25% lot coverage, which is allowed under section 240-69 E. We did submit a lot coverage worksheet with 28 surrounding properties. Out of the 28, 21 properties had a larger footprint and 18 have a larger gross floor area. As noted, a waiver for this project was approved by the Historic Commission. The project will be a big improvement over what currently exists.
Board Discussion

Dugan – Where are the mechanicals in the garage for heat, and where is the second means of egress in the garage. There is also a proposed deck on the site plan but it doesn’t show on the architectural plans.

Mark Bogosian – The mechanicals will be in the attic space above the garage; there’s enough room for a heat pump and cooling.

Dugan – Where is the second means of egress in the garage?

Bogosian – We were intending to have one of the windows be used as an egress.

Dugan – And if they jump out of the window what happens?

Bogosian – We’ve done this on many projects in the past and Rod Palmer has been fine with that.

Dugan – I would want to hear from the Building Commissioner on that. On the plans for the garage, you have labeled “kitchen”. If they aren’t planning on having cooking facilities, why is that labeled “kitchen”?

Bogosian – That’s our fault for labeling it that way, but we are amenable to a deed restriction. It’s intended to be a single-family.

Dugan – How about the deck off of the garage that’s shown on your site plan?

Bogosian – That was a proposed deck; they may or may not do it, but we calculated it in the lot coverage percentage.

Dugan – The 25% reflects the proposed deck?

Bogosian – Correct. The client’s weren’t sure if that’s something they wanted.

Dugan – If the deck is being proposed, we need to see that on the architectural plans.

Zylinski – I want to commend the team that put this together, this is a plan that in my opinion was done very well. It is one of the best plans that I have seen for a site of this size in a long time.

Dugan – I question the means of egress; we had a similar project, and he didn’t go with the window. We need something from the Building Commissioner allowing the window to be a means of egress. I am glad that they will go with the deed restriction.

Stockman – I spoke with the Building Commissioner, he did point out that a 2nd means of egress is required, but he did not offer a window as a solution.

Dugan – What would be the next date?

Stockman – We could do it at the next meeting on the 21st.

Foreman – If you add a structure for egress you would be over the 25%; you’ll have to look at that?
Zoning Board of Appeals
Virtual Meeting – Town Hall
Minutes of January 7, 2021 at 6:00PM
Zoning Administrator: Noreen Stockman

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

Bogosian – I will follow up with Palmer to see what he would prefer, and make the updated revisions.

Foreman made a motion to direct the Administrator to draft a positive decision with updated revisions to be reviewed at the January 21, 2021 meeting. Dugan seconded the motion. Motion carried 5-0.


All in favor.
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Zoning Board of Appeals  
Virtual Meeting – Town Hall  
Minutes of January 7, 2021 at 6:00PM  
Zoning Administrator: Noreen Stockman  

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse  

Open Meeting:  

1) Vote Minutes of December 3, 2020 and December 10, 2020  
Minutes of December 3, 2020 – Van Keuren made a motion to approve the minutes of December 3, 2020. Foreman seconded the motion. Motion carried 7-0.  
All in favor.  
Minutes of December 10, 2020 – tabled  

2) Board Administrative Approval – Request(s) for Insubstantial Change, Locustfield LLC – Beach Plum Path (430 Locustfield Road, #006-19) Modifications to previously approved plans  
Zylinski recused.  
Voting Members: Hurrie, Foreman, Dugan, Van Keuren, Barry  
Stockman – There were some changes proposed to Beach Plum Path, and for the ones deemed substantial, the decision was appealed to the Housing Appeals Committee (HAC). During mediation, they wanted you to reconsider that their requests are insubstantial changes. In the first request there was a typographic error for the square footage above the garage at 715s/f; it will only be around 200s/f. They would like to finish the basement too and in lieu of allowing the bonus room, they are willing to forego the sunrooms.  
Dugan – Does it meet the definition of a bedroom?  
Stockman – You can condition that there not be privacy doors other than on the 3 approved bedrooms.  
Dugan – If you finish off the basement, then they’ll change the layout of the floor plans.  
Stockman – Prior to sign off on a Building Permit Building, Health and myself can sit together to ensure everything is done properly.  
Dugan – He must have specific layouts for these changes. Why doesn’t he supply the specs now?  
Stockman – If the Board is considering allowing the interior changes, you could request that be supplied to you as an insubstantial change.  
Dugan – They should supply what the layouts are; they must have them.  
Barry – They have already done it, and sold it after the action. That isn’t the way this is supposed to operate.  
Hurrie – Is this a remand?  
Stockman – It’s my understanding that HAC essentially suggested a remand action for the Board to consider the request an insubstantial change.  

Hurrie – So I think we should ask for these layouts, and continue until we receive them.
Zoning Board of Appeals
Virtual Meeting – Town Hall
Minutes of January 7, 2021 at 6:00PM
Zoning Administrator: Noreen Stockman

Present: Hurrie, Dugan, Van Keuren, Barry, Foreman, Zylinski, Morse

Barry – Did we get anything from HAC?
Stockman – No.
Dugan - I think we need the specifics.
Stockman – You could request that they provide you with the floor plan changes and consider that an insubstantial change, that you would review and vote.
Dugan – I would request that they submit floor plan layouts that are specifically for this and then vote once you receive those as an insubstantial change. I think that you need to get the individual floor plans. Can we send our decision from tonight’s meeting to Town Counsel and they can forward it to HAC?
Stockman – We can do that.
Dugan made a motion to continue to February 4, 2021, and request all floor plans that are under contract be submitted to the Board for review prior to the meeting. Foreman seconded the motion. Motion carried 5-0.


All in favor.

3) Board Discussion –
Dugan - I think we need to come up with our own criteria about kitchens. There needs to be specific language. If we are able to get a description, it would go in the condition.
Zylinski – I called Stockman today very frustrated about lack of enforcement. Far too many times we are finding out that are conditions aren’t being met.
Stockman – The Building Commissioner had agreed to meet with the Board; it makes sense to have a meeting with him. I will see if I can set up something with him.

4) Board Updates –
Stockman – Everyone needs to take the State Ethics test and send certificates back to me. Target date is the end of this month.

5) Future Agenda Items – Next meeting January 21, 2021 at 6:30PM

Meeting Adjourned 9:10 PM

Respectfully Submitted,
Ashley E. DeMello, Office Assistant
Board of Appeals