

Zoning Board of Appeals
Minutes of January 8, 2026 at 6:00PM
Select Board's Meeting Room, Town Hall
Zoning Administrator: Noreen Stockman
Present: Peterson, Murphy, Petrucci, Finneran,
Absent: Morse, Duffy

RECEIVED
FEB 2, 2026 AM 10:12
TOWN CLERK

Public Comment – None

Continuation(s) #071-25 Fashion Food LLC, '0' (lot 001B) Worcester Court, Falmouth – requesting a Special Permit to allow a fast food, Class IV restaurant with drive-thru

Voting Members: Murphy, Peterson, Finneran, Hanney, Petrucci

Jeffrey Dirk, Peer traffic- We reviewed the traffic analysis and site plans and issued a letter. We looked at access, circulation and parking. The first thing that we look at with respect to their analysis is whether it is in compliance with State standards and the industry standards, and because we are on the Cape, we also look at the Cape Cod Commissions standards. We have asked the Applicant to consider updating their traffic mitigation, as there will be an increase in pedestrian and vehicle traffic. There is some motor vehicle crash history in this area, and I know that the Town and State have undertaken some improvements at the intersections close to this site. We've asked the Applicant to review the road safety audit that was done identify what has or has not been done according to that list. The items that have not been done are things that we have suggested they consider. There is potentially going to be an increase with people crossing Worcester Court to get to the project site, which is why we want to make sure we have a safe intersection. The Dillingham and Spring Bars Road intersection are both important because 80% of this traffic will go through that intersection. Route 28 will have about a 35% increase in traffic. Safety was an item to look at regarding what can be done to enhance safety at the intersection. We've asked for a review of mobility at the Spring Bars Road intersection. We have asked if the crosswalk is ADA compliant, which also goes along with our comments on the site plan; there is a sidewalk that gets you around the landscaping, but does not get you to the sidewalk to cross. We want pedestrians to be directed. We have also suggested that consideration be given to enhanced signage in advance of the crosswalk; possibly installing a rectangular flashing beacon. The bus does go past the site. We want to make sure that there are public transportation opportunities for employees to travel to the site and that management is encouraging those. The project draws a lot from the existing traffic stream; it's not new trips. About 60-70 new trips during peak hours have been verified and we agree with those calculations. There will be 100% new trips to the driveway and 120-150 trips in and out, because its 2-way traffic. There's not a large increase in new net traffic, but there will be an increase in in and out trips. The site is able to process the circulation; most of the traffic will be drive thru, with a queue of 6-7 additional vehicles during summer months. It is laid out well to accommodate these traffic projections.

Petrucci – What do you consider to be summer peak hours?

Dirk –The study was done in August 2024; the peak traffic volumes are generally after July 4th, July to August time period.

Finneran – They are requiring all traffic to turn right except for delivery trucks; who will put the signs up for that?

Dirk – It will be enforceable if it has been posted in the right-of-way; the police can enforce.

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Finneran – We would have to assume that the police or Traffic Committee would accept this. I'm doubtful if any of it is going to work. If you're pulling out and you want to go left, you're going to turn left.

Dirk – I would need to review if that is what the Applicant proposed. If you're telling them that they can't go a certain way, then Worcester Court is going to have more traffic, and there will be an impact. The queue goes past the driveway in the summertime. I have not seen that analysis, but I would be a bit concerned; that has not been factored into the analysis.

Peterson – The Applicant is proposing to install a flashing stop and a digital radar, can you speak to the effectiveness of those?

Dirk – I haven't seen the proposed flashing sign. For the speed radar you will get a reduction of about 3-5 MPH if they are traveling at a higher speed. It is a proven countermeasure. The flashing sign would be effective at night.

Murphy – These studies were done in 2017 and 2021, correct?

Dirk – Anyone can find the studies online; it will provide a checklist for them. Anything that isn't done is what we want them to look at.

Murphy – Does that red blinking light that was installed seem too high to you?

Dirk – You want it in the sight line of the driver. The site is laid out very well and it's what we would expect to see with a project like this. We also want to make sure that the fire trucks and delivery trucks have adequate circulation and that they can maneuver on the site without going through parking spaces, and that the garage truck can access the dumpster. Just because a fire truck can move around a site does not mean the delivery trucks or trash trucks can maneuver.

Murphy – There is a crosswalk that is attached to the dumpster area.

Dirk – The intent for the crosswalk is for the employees to get to the dumpster; it's not for pedestrians. As the drive-thru lane comes out to Worcester Court, we asked for additional signage; we asked that that be added to the site plan. The sight distance plan was provided and we asked that they make some adjustments. Their response was that it is what was required by the Town, but they are referencing the State standards; they should be federal standards. There are specific notes that we want added to the site plan. No objects should be placed higher than 2' in site. This area won't be plowed or sanded. If the Board approves this, we would request that this be an exhibit for potential enforcement issues. The turning analysis would tell us why the driveway needs to be this wide. We want to make sure it's not any wider than what it needs to be; a wider driveway also makes pedestrians exposed to traffic for a longer time, so we have asked them to reduce it. We would like to have a leveling area for the vehicles to come down, before they get to the roadway to get some control if sliding starts; we would like them to look at the slope.

Petrucci – What if they can't achieve that, that is a high grade?

Dirk – They will have to look at it and show us how they would achieve it, if they come back and say there is no solution then we would have to provide a response.

Murphy – Did you feel the queuing line was okay?

Dirk – Yes. They have plenty of room to stack within the project site. To the extent that there is extended queuing, it only blocks some spaces that would be in front of the building.

Finneran – The ordering will be done at the box that is at the center? That only gives you 4 cars before you start to block the parking spaces.

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Stockman – Do you think that it is practical as a condition to limit hours for delivery \ trash services?

Dirk – Yes; you don't want to have that interaction, it's either off peak hours or when the business is closed.

Public Comment

Ben Garvin, 109 Worcester Court – Based on what [Dirk] generated in his report, it's my understanding that there is a request for a variance based on how far the paving goes into the parking lot. I think that the plan is to pave up to 2' to the line. Is it done based on the assumption that the variance is there, or is it done before the variance?

Dirk – I would defer to the Applicant, but the plan that they are showing is what they are requesting approval on. I would assume it includes the variance being granted.

Linda Clark, Falmouth Housing Corp. (abutter) – We have 40 affordable units next door; have you considered the entrance and exit, and have you looked at the impact with potential safety issues?

Dirk – There shouldn't be an issue within the driveway. I think that I would be more concerned with vehicles turning right.

Clark – I visit the property frequently; vehicles come through that intersection very fast. 51 accidents occurred there in 9 years. I think that is pretty substantial and I am concerned with 32 vehicles coming and going within our complex, plus a bus stop for the kids. I think that it's a scenario for a disaster. I was on site five years ago for construction and all you heard was the screeching of tires.

Finneran – I'm also worried about the sidewalk.

Clark – It's a dangerous intersection and the cars come so fast down Worcester Court.

Petrucci – The Town has been reluctant to put speed bumps there because the fire trucks and ambulances bounce over them. Would that calm the speed of traffic?

Dirk – Because of the volume of traffic on this roadway it creates some unintentional issues. It creates so much noise as the vehicles go over them, it also does slow traffic down to where it affects operations and traffic flow.

Petrucci – So the only solution would be to install a stop light?

Dirk – No, you could do certain things to make the roadway narrower.

Petrucci – The Town has made an effort to where we have these issues. Will it be a physical narrowing or painting?

Dirk – It also helps with pedestrian crossing, and because the lines are pushed out, they appear to be close up. That would deal with the vehicle speeding up; you would try to create a series of things to slow traffic.

Petrucci – Would you be making that recommendation?

Dirk – I would wait for them to address it; it's costly. There are things that would be justified.

Petrucci – Why would we care what things cost?

Dirk – That wouldn't be relevant to my analysis; who pays for what is a different battle.

Finneran – Was that traffic study done prior to Aldi opening?

Dirk – Yes it was.

Finneran – Are there actual numbers?

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Dirk – No. It was what was in the traffic study for the project, so it's not actual.

Murphy – The kids at the development next door will probably walk into the first entrance because it's the quickest.

Dirk – The sidewalk should be flush across the driveway. If pedestrians go in that way, they need to cross the queuing lane. We don't want cars sitting on top of a crosswalk.

Finneran – Where is the drain going?

Dirk – They have a trench drain before the sidewalk.

Clark – Are we positive that the RTA goes down Spring Bars Road? I've never seen them come down that road.

Dirk – That's one of the things that we have asked them to review.

Petrucci – The Applicant has to identify transportation alternatives.

Clark – The exit and entrance on Worcester Court; isn't that directly across from the Falmouth Plaza?

Dirk – It's slightly offset, but not by much.

Scott Clements, 179 Worcester Court– It sounds good to try and narrow the road, but it is not possible, because of the amount of commercial vehicles that go down that road. It's too narrow as it is. They are constantly going over the curbs. The number of parking spots that they are proposing; what is that based on?

Bob Ament – attorney - The additional plans did not provide for a right hand turn only, the plans don't show that. We did that because it was something we were willing to do. The Engineering Department no longer believes that's a problem; they are comfortable with that. Our plan that was submitted last month does not restrict the traffic to right turns only; the delivery and trash truck only are required to turn left. The Applicant has submitted turning movements for the largest trucks.

Raul Lizardi -Rivera – project engineer - The single unit 40 will be the vehicle turning movements that represent some of the delivery trucks and the dumpster truck.

Ament – The width of the curb cut is the same width or a little wider than what we have proposed; that width is required because of the truck turning in there. The plans have also been revised, and the Engineering Department is satisfied with that curb cut, with the exception of the trench drain. The slope makes it very difficult to control that small area. Our engineer feels a trench drain would be the best; there would be an annual inspection.

Petrucci – The lateral drain is within the property not within the right-of-way, so why would there be an issue?

Finneran – They don't believe it's going to capture the water.

Petrucci – I'm going to listen to what our Town professionals say. Will your engineer respond to that and do something about it?

Ament –The Town Planner has asked to set up a meeting with myself and our engineer on how we deal with that. Our responses have satisfied the Town; this is the only comment that is open. We need to come up with a solution. We think that what we are doing is a great improvement. This area is only 330sf that we're talking about.

Peterson – Will you extend the sidewalks at the front of the property?

Ament – There is a sidewalk on the other side of the street. We don't think that extending serves a purpose; we don't want people to cross there. We want people to cross at the sidewalk from the

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restaurant to Worcester Court. The plans show 39 parking spaces; 36 are required. That takes into account that every seat is not taken by a driver, so there is space for the employees. Mr. Dirk notes that there is adequate parking and that the required spaces is between 22-29; we have 39. There is probably excess parking.

Murphy – How many employees will you have?

Ament – 8 to 9.

Murphy – Is there any ride sharing?

Ament – Mr. Dirk has suggested that in his letter and I think that is logical. We have an intersection which is a problem area with 51 reported accidents which is about 5-6 accidents per year. The police department has said that after the flashing beacon has been installed, there has only been 1 reported accident. There are other things that we can install to make it safer. We have a vacant 1-acre lot in a Business 2 zoning district located within the MRCOD district, which encourages business development plus 20 units per acre. Some of the concerns that you have are legitimate. We have very low lot coverage; the site is big enough for parking. It isn't fair to assume that there will be no development of this property. The owner hasn't developed this site for decades. It can't be the job of this developer for everything that is necessary for that intersection; they have to do what is reasonable. Mr. Dirk says the intersections will operate safely. The Town has a bylaw where you can't have a driveway within 50' of an intersection; we are 200 feet away. We are not creating these problems.

Finneran – You would be adding to them.

Ament – Any business would be, but we are also making significant improvements.

Petrucci – Under section 240-12.1E, it's the standards that this Board looks to as to whether we are either going to deny or approve an application. It asks how does the project not degrade levels of service. You talk about what exists today, you talk about the problem and that a Wendy's will add to that problem. It's not currently creating the problem, but it would degrade the level of service.

Ament – One movement at the intersection has changed. We can take another look at that. There will be some increase in traffic, but not a significant level. Keeping this property undeveloped isn't the solution.

Peterson – Hopefully you can come back and propose some solutions to the safety issues. The more you can spend your time on that, the more it will help.

Finneran – I don't understand why you don't want to extend that sidewalk?

Ament – It will bring people to a place where it ends.

Finneran – Is there an issue with puddling in front of your driveway as it exists?

Clark – We have a drain on the edge of our property.

Finneran – Does it handle the water now?

Clark – It does now, but I don't know how it will handle more. I have spent over \$17k mitigating storm water. I'm not going to manage their storm water if this is approved. Attorney Ament is focused on developing the property. I don't think that anyone wants to see it be developed; it's the use: there will be a ton of trash, the noise and lights, trash/ delivery trucks that are there after hours. It's not a place suitable for restaurants. The light at the intersection has helped a little, but I hadn't noticed it, because I'm so worried about getting hit.

Petrucci – I will ask the Applicant to show why this is not creating a nuisance.

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Clark – It will have a huge impact. It will be a problem, and I don't believe that we won't have odors. I don't see it for this location.

Ament – I prepared a letter that I gave to Stockman that addresses lighting, odors and trash. The speculation that the restaurant won't take care of its trash and that the state-of-the-art filters won't work; those speculations aren't based on facts.

Celina Garvin 109 Worcester Court – The reality is different than simulation. I feel as though there is a lot of sugar-coating going on. These people don't live in this neighborhood. There are neighbors very close by; the things that affect them are real.

Petrucci - I will ask these questions: how do you keep the smell down, and the noise with the microphones, etc.

Celina – I was on Route 28 the other day heading towards Worcester Court and there was a truck coming out of the Walmart plaza; it had to pull out into the post office parking lot. I think that it is a hard to justify a fast-food location here.

Peterson made a motion to continue to January 29, 2026. Finneran seconded the motion. Motion carried 5-0.

All in favor.

Application #

Applicant Name:

Address:

Document (s) Submitted:

Date Submitted:

Submitted By:

Email re: continuation
Engineering Review

1/23/24
1/28/26




Application #	Applicant Name:	Address:
	Toshiko Awa	
Document (s) Submitted:	Date Submitted:	Submitted By:
Public Study (10/4/24)	11/5/25	ea
letter (Duffy) cpr	11/6/25	ea
letter (GRW LLC) cpr	11/6/25	ea
letter (B. Casan) cpr	11/7/25	ea
Email w/ attachments	11/13/25	ea
Revised landscape plan	12/3/25	ea
Revised site plans	}	}
Letter response to Eng. Comments		
Letter/analysis w/		
(2) Revised letter	12/9/25	ea
(2) letters w/ attachments (see above)	12/18/25	ea
Peer Eng. review (Dirk)	12/29/25	ea
Revised site plans	12/29/25	ea
" " landscape	}	}
" " Elevations		
Email - L Frantin (cpr)	1/7/24	ea
Peer Eng. review	1/7/26	ea
VHB memorandum	1/8/24	ea
letter w/ exhibits (ament)	1/7/24	ea
Certification - Hunny	1/8/26	ea
Peer review (and) J. Dirk	1/16/24	ea
letter from B. Ament	1/20/26	ea

w/ attachments

Revised floor elevation plans 1/20/26 ea
 Revised site plans 1/21/26 ea
 letter - Ament w/ attachments 1/21/26 ea

Application #	Applicant Name:	Address:
071-25	Fushia Food LLC	Oliver Street CT.
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / Fee	10/3/25	B. Amant
Access authorization	}	}
Site plan layout		
Grading & drainage		
Arch plans		
Landscaping plan		
Wastewater variance		
Turning radius plan		
Site distance		
Neighborhood graphic		
Request Abutters		
Request referees	10/7/25	Ⓢ
Referee - planning	}	}
Referee - fire		
Referee - Building		
Referee - H2O	10/9/25	Ⓢ
Rec'd cert Abutters	10/15/25	Ⓢ
Health referee	10/15/25	Ⓢ
letter - M. Hallett (support)	10/24/25	Ⓢ
letter - S. Wroter (support)	10/24/25	Ⓢ
letter - D. Rodriguez (support)	10/24/25	Ⓢ
Con Com referee	10/28/25	Ⓢ
letter. Farley (opp)	10/31/25	Ⓢ
letter J. Cote (opp)	11/5/25	Ⓢ
letter E. Mazmenian (opp)	11/5/25	Ⓢ

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#083-25 Voci, 391 Currier Road, East Falmouth – requesting a Special Permit to allow boat storage

Voting Members: Murphy, Peterson, Finneran, Hanney, Petrucci

Murphy noted that an email was received from the Applicant requesting a continuation. Peterson made a motion to continue to March 26, 2026. Petrucci seconded the motion. Motion carried 5-0.

All in favor.

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#085-25 Smith / Cerlins, 51 Thomas Lane, Falmouth – requesting a Special Permit to raze and rebuild the existing, nonconforming, two-family dwelling, increasing lot coverage by structure

Voting Members: Murphy, Peterson, Finneran, Petrucci, Hanney

Duffy read the 'Notice of Public Hearing' and noted the following referrals had been received:

Referral from the Fire Department -The Fire Department has no issues with the project as drawn.'

Referral from Planning – no comment

Referral from the Building Department -Condition Elevation Certificate; Pursuant to Section 240-3.2 'Definitions' –see 'Story' – ZBA determine if 3 story structure.'; revised referral dated 12/30/25

Referral from the Engineering Department with comments; drywells are shown as recommended; comply with section 99-1 'Affixing of Legible Numbers; time limit for compliance'; refer to the Conservation Commission

Email dated January 5, 2026, from Matt Lanen, Water Superintendent

Email dated January 5, 2026, from Scott McGann, Health Agent

Correspondence – none

Kevin Klauer, attorney for Applicants – The Applicants are seeking permission to raze and rebuild the existing, nonconforming, single-family dwelling. This property is located across from Surf Drive beach, in a dense, seasonal, residential neighborhood. The lot is 11,253sf located within the Residential C zoning district, located within a flood zone and sewerred. Presently, there is a duplex dwelling with a total of 4 bedrooms and 2 detached sheds, with a total footprint of 2,230sf. The property is only nonconforming to the front yard setback being 18'4", but otherwise conforms to setbacks and lot coverage. The use as a duplex is a nonconforming use as a duplex was allowed in a General Residence as a by-right use until 1964, when it was rezoned to a Residential C district. The current duplex was built in 1958. The property has been in the family since 1991, the house needs significant repairs, and they are looking to make it their full time residence. The proposal will improve the front yard setback from 18'4" – 26', and all other setbacks will either conform or exceed the minimum. Lot coverage by structures will be increased from 19.8% - 24.4%, and will maintain the home as a duplex; there will be no increase in the bedroom count. We are aware of the Building Department's referral and we would be amenable to a height certificate at framing. Attorney Klauer opined that the project meets the criteria of 240-10.2A, 240-11.3A(4) and 240-12.1E. It is in line with other surrounding structures and a number of surrounding homes have had to come in compliance with flood zone standards. We did submit a lot coverage worksheet; this is slightly above the average, but in line with newly constructed houses in the area.

Board Discussion

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Finneran - You did max this out.

Klauer – There is a 33’ setback on the southerly side; that is a substantial setback.

Peterson – Its big and bulky; we would need the As-built for lot coverage and the height.

Murphy – Is this considered to be 4-stories?

Klauer – I met with the Building Commissioner; the first floor is not habitable because it’s in a flood zone, so the Building Commissioner retracted that statement. Even if we went lower with the ceiling height, I don’t think that there would be an appreciable difference.

Murphy – What will the entry way stairs look like?

Klauer – Its ground level, it will be flush the front of the house.

Murphy – The sheds are going away?

Klauer – Yes.

Murphy – You think that this was within the average?

Klauer – Yes, there have been many newly constructed homes that have had to come into flood compliance.

Petrucci – There’s no entry slab into the basement?

Klauer – You can’t have a basement in the flood zone.

Finneran – What is the proposed height?

Klauer – 34’8”.

Public comment – none

Finneran made a motion to close the hearing. Peterson seconded the motion. Motion carried 5-0. Peterson made a motion to grant application #085-25. Petrucci seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 11,253sf located within the Residential C zoning district and the AE12/13 flood zones
- 2) Meets criteria of 240-10.2A, 240-11.3A(4) and 240-12.1E
- 3) Private road
- 4) Proposed height 34’8”
- 5) Existing lot coverage 19.8% \ 34.9%; proposed 24.4% \ 39.6%
- 6) Nonconforming front yard setback with be eliminated
- 7) Frontage -125’
- 8) Lot coverage worksheet submitted
- 9) Structure is legally pre-existing, nonconforming; re-zoned in 1964
- 10) Received referrals from Fire, Planning, Building, Engineering, Conservation, Water, Health

Conditions

- 1) Per revised plans
- 2) Comply with requirements of the Building Department, Engineering, Conservation, and Water Department
- 3) Height certificate to be submitted a framing
- 4) As-built for lot coverage by structure and total lot coverage to be submitted prior to final CO

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- 5) No other structures without prior approval from the Board of Appeals
- 6) Work Hours: Monday – Friday 7a-7p, Saturday's 8a-4p; no Sunday's or Holidays absent an emergency
- 7) Contact Falmouth Police if detail is required
- 8) Comply with requirements of the Wastewater Department
- 9) Assessors review of property prior to final CO

All in favor.

Application # 085-25	Applicant Name: Smith / Cerins	Address: 51 Thomas Lane
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / fee	12/5/25	Klaun
owner authorization))
copy art. 41		
property record card		
4c worksheet		
(9) copies site plan		
(9) sets arch plans	12/8/25	ⓐ
Request Amulca	12/8/25	ⓐ
Request reissues	12/8/25	ⓐ
Defend planning	12/8/25	ⓐ
Defend Fire	12/8/25	ⓐ
Defend Building	12/9/25	ⓐ
Defend - Eng	12/11/25	ⓐ
Defend - Building	12/31/25	ⓐ
Defend - H2O	1/5/24	ⓐ

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Open Meeting:

- 1) Minutes: December 11, 2025, December 18, 2025: tabled.
- 2) Board Discussion
- 3) Board Updates
- 4) Zoning Administrator Updates
Stockman – The ZBA is planning to go live for on-line permitting on January 12th, so Applicants can apply electronically. We will still be requesting paper copies for the Board.
- 5) Future Agenda Items – We have an Executive Session at 5:30pm and Public Hearing 6:00pm on January 15, 2026

Finneran made a motion to adjourn at 8:10pm. Peterson seconded the motion. Motion carried 5-0.

All in favor.

Respectfully submitted,

Ashley E. DeMello, Office Assistant
Board of Appeals