

**Zoning Board of Appeals  
Minutes of February 16, 2023 at 6:30PM  
Zoning Administrator: Noreen Stockman  
Present: Morse, Peterson, Potamis, Finneran, Murphy, Duffy**

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MAR 27, 2023 PALM BEACH  
TOWN CLERK

**Public Comment – none**

**#102-22 Martin, Trustees, 88 Lucerne Avenue, Falmouth** – requesting a Special Permit to remove the existing deck and construct an addition to the non-conforming dwelling

Voting Members: Morse, Peterson, Murphy, Finneran, Duffy

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

Fire – no comment

Assessors – no comment as presented

Water - the existing service is a ¾ inch copper line; recommend installing a new 1-inch service line that conforms with the current Falmouth Utilities Division Standards. .

Engineering - comments; drywells are shown on the plan as typically recommended; comply with Town’s “Soil Erosion and Sediment Control Standards Conditions

ConCom – no comment

Health – Property on Town Sewer – no issues with Health

**Correspondence - none**

Bill Farrington, Contractor/representative – We made the changes, as requested from the Engineering Department. We didn’t have the property staked out at the last meeting, but it has since been staked. After it was staked out, the Applicants wanted to know if they could move the bulkhead to the back.

**Board Discussion -**

Peterson – To confirm, 4 bedrooms?

Farrington – We are eliminating one upstairs so it will be 3-bedrooms.

Peterson - It should be 584 s/f on the application, as opposed to 504 s/f. I think it’s a well thought out project.

Murphy – Is the bulkhead that is already in place staying?

Farrington – Yes, the existing bulkhead is staying, but because it’s shorter, the access is limited; which is why there is a need for the 2<sup>nd</sup> bulkhead.

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Murphy –According to the plans, the wood deck will be removed, and the proposed patio is showing where the deck used to be. But then I look at the application, it looks like the patio will be running where the deck was.

Farrington – It will be taking up that same space.

Finneran – I’ve never seen that overflow pipe, but it’s a good addition, although I would like to see it about 15’ away from the house.

Duffy – I don’t have any issue with you moving the bulkhead; it seems to be a reasonable request.

**Public comments –**

Robert Dugan, 64 Lucerne Avenue – It seems to fit in with the neighborhood; they aren’t going for max lot coverage, which most people seem to do nowadays. I don’t see an issue with the bulkhead. I would think that the patio would be figured into the total lot coverage, and I would guess that it would still be well under.

Farrington – Is it part of the lot coverage?

Stockman – The patio would be calculated into the total lot coverage number.

Farrington – I don’t know what that would be off the top of my head; I would have to do the math to figure it out.

Finneran made a motion to close the hearing. Murphy seconded the motion. Motion carried 5-0.

Finneran made a motion to approve application #102-22. Murphy seconded the motion. Motion carried 5-0.

**Findings**

- 1) Property is located within the Single Residence C zoning district, Little Pond Coastal Pond Overlay District and not within a flood zone
- 2) Lot is 9,749 s/f
- 3) Existing lot coverage 13.8%/20%; proposed lot coverage 20.0%/27.3%
- 4) Property is sewerred
- 5) Meets criteria of 240-3 C. and 240-216
- 6) Proposed height 21’.5”
- 7) Patio is 8’x13’
- 8) Testimony - intend to move second bulkhead to another location.

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9) Testimony – 3-bedrooms; allowed 4-bedrooms by right

10) 1 person in favor at hearing; no opposition

**Conditions**

1) Construction Hours: Monday – Friday 7A-7P, Saturday’s 8A-4P; no Sunday’s or Holidays absent an emergency

2) Per revised plans; Administrative approval may be granted for the 2<sup>nd</sup> bulkhead addition

3) Comply with the Water Department’s referral

4) Comply with the Engineering Department’s referral

5) No more than 4-bedrooms

All in favor.



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**#110-22 Keller, 72 Pheasant Lane, East Falmouth** – requesting a Special Permit to allow a pool/spa

Voting Members: Morse, Peterson, Murphy, Finneran, Duffy

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

Water – no comment

Assessors - no comment as presented

Planning – no comment

Health - There is sufficient setback between the proposed pool and the leaching pit. However, the pool will have a 20’ setback to any future septic system that maybe required. BSC group should provide a leaching reserve area that meets setback, to ensure a future leach filed can be installed without variances. Don’t want to create the need to issue variances in the future.

Engineering – comments: where this project falls in the jurisdiction of the Conservation Commission, we defer to the Commission for stormwater management and construction erosion controls.

Conservation Commission received approved Order of Conditions

**Correspondence** – none

Finneran - I visited the site, and the issue is the distance to the property line. There was one stake at the property, and no indications to the property line. The Applicant hasn’t done their due diligence.

Robert Ament, attorney for Applicant – I asked BSC Group to stake over 3 weeks ago, and received an email about 13 days ago, that they staked the property lines. I don’t know when Mr. Finneran went to the property, but a certified surveyor told me, in writing, that they staked the property.

Peterson – I walked the property and it wasn’t staked.

Ament – I’m sure that they staked the property.

Morse – Being that the Board has had issues with this, and it is a voted policy that 4 corners need to be staked, along with any proposed work.

Murphy – I saw 2 stakes when I went out.

Finneran – I like to see everything staked.

Morse – The Board is going to be very adamant about staking going forward.

Peterson made a motion to continue to March 2, 2023. Murphy seconded the motion. Motion carried 5-0.

All in favor.

**#001-23 Kidwell, 65 East Falmouth Highway, East Falmouth** – requesting a Special Permit to construct a stairway to the second floor of the dwelling

Voting Members: Morse, Peterson, Murphy, Finneran, Duffy

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Murphy read the 'Notice of Public Hearing' into the record, and read the following referrals:

Planning – no comment

Water – no comment

Engineering – comments: drywells are included in the design; applicant will need to contact the Engineering Division for address assignments

Health – no comment

**Correspondence** – 4 letters – no objections / support

Steve Kidwell, owner/Applicant – My wife and I purchased this property from our family a few years ago. We are not making any exterior changes to the house. We are proposing a 4'x11' deck at the rear, and a stairway down to the existing deck. The abutters did give a letter of support. Other than updating the interior, we are making no other changes.

**Board Discussion**

Finneran – I don't see any problems, but I would say the same thing to you: if you keep your drywells 15' away, you will never have an issue with moisture.

Kidwell – I can have the engineer look into that for me. I would have to see how far we would have to be away from the Rt 28.

**Public Comment** – none

Finneran made a motion to close the hearing. Murphy seconded the motion. Motion carried 5-0.

Peterson made a motion to approve application #001-23. Finneran seconded the motion. Motion carried 5-0.

**Findings**

- 1) Property is located in the Single Residence C Zoning district, the Great Pond Coastal Pond Overlay District, and not located within a flood zone
- 2) Lot is 8,349 s/f
- 3) On a State road
- 4) Existing lot coverage – 13.3% - 37.6%; proposed 14.0% - 38.3%
- 5) 4 letters in support
- 6) Meets criteria of 240-10.2A and 240-12.1E
- 7) No opposition in file or at hearing

**Conditions**

Application #	Applicant Name:	Address:
001-23	Kidwell	605 E. Fal. Hwy
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / Fee	1/4/23	Kidwell
(9) sets drawings	}	
(9) copies site plan		
Request Abutters	1/5/23	ea
Request rekmls	1/5/23	ea
Email to app.	1/5/23	ea
Refeme- PB	1/5/23	ea
letter- Motta	1/9/23	ea
letter- Ross	1/9/23	ea
Refeme- H20	1/9/23	ea
letter- Netto	1/11/23	ea
Rec'd abutters list	1/12/23	ea
Refeme- Eng.	1/23/23	A
House # assignment	1/24/23	ea
Health refeme	1/25/23	ea
letter / support Silvera	1/26/23	ea
Revised Plans	1/26/23	ea
Refeme - Concan	2/3/23	ea

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- 1) Per plans
- 2) Construction Hours: Monday – Friday 7A-7P, Saturday’s 8A-4P; no Sunday’s or Holidays absent an emergency
- 3) Comply with the Engineering Department referral

All in favor.



Application #	Applicant Name:	Address:
110.22	Keller	72 Pleasant Hill
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / fee	12/27/22	Ament
Authorization	}	}
photo / disc. of pool		
(9) copies plot plan		
L/C calcs		
Request reference	12/28/22	@
Request ADULTS	12/28/22	@
Email to B. Ament	12/28/22	@
Referral - Planning	1/4/23	@
Referral - Assessors	}	}
Referral - H2O		
Referral - Health	1/9/23	@
Referral - Eng.	1/11/23	@
Referral - Keller	1/25/23	@
letter - Ament w/ photos	2/21/23	@
letter - Support Sshen	2/24/23	@
letter Support Sshen	2/24/23	@

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**#003-23 Old Dock Road Condominium Association, 606 West Falmouth Highway, West Falmouth** – appeal of the Building Commissioner’s determination

Voting Members: Morse, Peterson, Murphy, Finneran, Duffy

Morse took application #003-23 out of order, and noted that a request for a continuation to April 27, 2023 was received.

Stephen Ladd – We request a continuation for time to research the legal authority that has been discovered over the last few days. We will also be seeking legal counsel.

Murphy made a motion to continue application #003-23 to April 27, 2023. Finneran seconded the motion. Motion carried 5-0.

All in favor.

Application #	Applicant Name:	Address:
003.23	Old Dock Road Const. Co LLC	W. Fall Hill
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / fee	1/11/23	ODRCA
Enforcement letter	1/11/23	" "
Email - D. Shearer <sup>w/ attachments</sup>	1/12/23	(A)
Request Abutter	1/12/23	(A)
Request re kernel	1/12/23	(A)
Email from D Shearer	1/12/23	(A)
11 Re kernel - Building Dept.	1/17/23	(A)
letter support Harlow	2/1/23	(A)
letter - opposition Mitchell	2/9/23	(A)
letter - Mallory	2/3/23	(A)
letter. B. Wall	2/13/23	(A)
letter - McHenry	2/13/23	(A)
letter - Clayton	2/14/23	(A)
letters - Harlow - Harlow	2/15/23	(A)
Continuation letter	2/15/23	(A)
letter - Kellner	2/10/23	(A)
Continuance waiver	2/17/23	(A)

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**Open Meeting:**

- 1) Vote Minutes: January 19, 2023 and February 2, 2023  
Minutes of January 19, 2023 – Murphy made a motion to approve the minutes of 1/19/23.  
Finneran seconded the motion. Motion carried 6-0.  
All in favor.  
February 2, 2023 - tabled
- 2) Confirm By-Law Working Group Members  
Morse made a motion to appoint Peterson and Duffy. Finneran seconded the motion.  
Motion carried 6-0.
- 3) Board Discussion - none
- 4) Board Updates –  
Morse – The Board did have its workshop this past Saturday. We are still working on getting the staking issue down, and we are thinking about having another workshop in 6 months.
- 5) Future Agenda Items – next meeting March 2, 2023

Meeting adjourned 7:05 PM

Respectfully submitted,

Ashley E. DeMello, Office Assistant  
Zoning Board of Appeals