

Zoning Board of Appeals
Minutes of September 14, 2023 at 6:30PM
Zoning Administrator: Noreen Stockman
Present: Morse, Potamis, Finneran, Duffy, Murphy, Petrucci
Absent: Peterson

SEPT 15 2023 10:10 AM
MORSE

Public Comment – none

#071-23 9 Sycamore Street, Falmouth-requesting a Special Permit to allow the raze and rebuild of the single family dwelling.

Morse – An email was sent by Kevin P. Klauer, II, representative for the property owner, on September 13, 2023 to the Board, requesting that this application be withdrawn without prejudice.

Murphy made a motion allow application #071-23 be withdrawn without prejudice. Finneran seconded the motion. Motion carried 5-0.

All in favor.

Application #	Applicant Name:	Address:
071.23	Dianaelo / Kula	9. Surama Street.
Document (s) Submitted:	Date Submitted:	Submitted By:
Firm letter - opposition	9/8/23	McGloth
}	}	Vahney
		White
		D. Caldera
		M. Caldera
		M. Fuller
previous ZBA ⁰⁸⁵⁻²² Decision	9-11-2023	N. Sroekum
Firm letter - opposition	9-11-23	not legible
" "	" "	not legible
letter - opposition C. Kepkuz	9-11-23	@
Firm letter - opposition	9/12/23	@ / not legible
" "	" "	" "
" "	" "	" "
" "	" "	C. Shea
Email re: ^{opp. to} Continuance	9/13/23	@
" "	" "	" no name provided
}	}	J. Schudleg
		H. Schudleg
		P. Ghilani
		J. Geleman
		L/B. Aspell
		M. Martin

Application #	Applicant Name:	Address:
071.23	D'Angelo/Kelly	9 Sycamore St
Document (s) Submitted:	Date Submitted:	Submitted By:
Form letter-opposition	8/30/23	O'Keam
"	"	Not legible
"	"	J & E Kelly
Form letter-opposition	9/4/23	M. Martin
		T. Martin
		Remillard
		Schadegg
		J. Schadegg
		Holly S. Mullenbacher
		not legible (3 kumms)
		B. Cravola
		Gillody
		Gillispie
		D. Corey
		Fuller
		Jayce
		Henry
		Murphy
		Blumenfeld
Email opposition	9/5/23	S. Gilloley
Form letter-opposition	9/8/23	ⓐ / Albury
"	"	McGrath

Application #	Applicant Name:	Address:
071-23	Kula/D'Angelo	9 Sycamore
Document (s) Submitted:	Date Submitted:	Submitted By:
Form letter - opposition	8/24/23	ⓐ / Black
" "	" "	Black
" "	8/24/23	Not eligible
Form letter - opposition	8/25/23	ⓐ / Boules
Preferential - ConCom	8/28/23	ⓐ
Form letter - opposition	8/28/23	ⓐ
		G. Luby
		C. Pellerin
		W. Belleva
		P. Murphy
		P. Croft
		E. Prochuk-Ghoniem
		R. V. Worelak
		A. White
		A. Dill
		Not legible (Nancy?)
		Not legible
		Not legible
	C. Cotting	
Preferential - Engineering	8/29/23	ⓐ
Form letter - opposition	8/30/23	ⓐ / Lister
" "	" "	P. Rosea

Application #	Applicant Name:	Address:
071-23	Kula/Danaela	9. Sucamare St.
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / fee	7/25/23	Klaw
Owner authorization	}	}
L/c calculations		
photos - Ex. Structure		
(9) copies site plan		
(9) sets Arch plans		
Request re fees	7/26/23	Ⓟ
Request Abutter	7/26/23	Ⓟ
Defend - Eng.	8/14/23	Ⓟ
Form letter - app.	8/22/23	J. Allen
" " "	" "	S. Sweeney
" " "	" "	J. Ben
" " "	" "	F. Ahearn
" " "	8/23/23	DeTraniello
" " "	" "	Maker
" " "	8/23/23	Ganvey
" " "	" "	Karson
" " "	" "	Romiza
" " "	" "	Ghilani
" " "	" "	Gorden
" " "	" "	Zillman
" " "	" "	? (Resident) Rebello?

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Martin \ Cross, 0 Stowers Street, Teaticket – seeking a Special Permit to construct a single family dwelling exceeding 20% lot coverage by structures

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

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

Assessors’ – no comment

Fire – No issues with the project as drawn

Water - Water service line must be shown on the site plan; a water service application shall be completed and submitted to the Falmouth DPW if town water is desired

Planning – no comment

Engineering - with comments; obtain driveway permit and post any required bond with the Engineering Department; drywells are proposed as recommended; Engineering will assign the address once a Building Permit is signed off; comply with section 99-1 ‘Affixing of legible numbers required; time limit for compliance’; comply with town’s “Soil Erosion and Sediment Control Standard Conditions”

ConCom - It appears that some of the 100’ buffer to a nearby coastal bank(s) fall on this property. This is not shown on the plan so Conservation Staff is unable to assess if this project requires approval from the Conservation Department. With an updated site plan from Warwick and Associates, containing the delineation of nearby banks and the associated 100’ buffer, Staff can evaluate the project further. Email from Conservation Staff dated August 31, 2023, reporting no Conservation jurisdiction.

Email dated August 25, 2023 from Scott McGann, Health Agent (property is on Town sewer)

Correspondence - None

Joe Clancy, Clancy Construction – As part of our presentation, we did a lot coverage analysis, and as I looked at the coverages around this property, they averaged about 15%; we are requesting 21.2%. The site was created in 1959 as a typical lot in the Maravista area; originally it had 8,737 s/f of land, but at some point there was a dispute on Chestnut Street, and there was a claim regarding the rear end of the lot. The dispute was adjudicated by the Supreme Court, and 1,344 s/f was awarded to the abutter on the neighboring street; that is how this lot resulted in the square footage it has today, at 7,310 s/f. The Applicants are looking for a multi-generational

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house with 4-bedrooms. This property is on the Little Pond Sewer Service area, there are no wetlands, and we are beyond the 100' buffer zone, and not located within a flood zone. We aren't asking for any variance or anything else; we are requesting additional lot coverage. The dwelling is going to be 2.5 stories with a footprint of 2,613s/f. There will be 2 bedrooms on first floor, the middle floor will have the majority of living space plus 1 bedroom, and the top floor will have the primary bedroom and bathroom. The proposed ridge height will be 33'.5". The lot is rectangular in shape, and has 75' of frontage. The neighbors won't be affected by the proposal. The house is about 26' x 47' deep. We've exceed the 20% coverage because we needed a staircase to get up to the second floor deck. We will tie into the Little Pond sewer system. The house was designed by Brian Foley with Clancy Construction. It will be aesthetically pleasing and we hope to install solar panels in the future.

Brian Foley, designer – We did resubmit revised plans based on the comments that we received.

Board Discussion

Murphy – Why are you calling it 2.5 stories when it's 3?

Foley – The 1st story has to be 50% or less square footage than the second floor, and the 3rd floor is 50% of the 2nd. The third floor is 1,148s/f, and the second is 574s/f.

Petrucci – What is the proposed lot coverage by structures?

Foley – 21.2%.

Petrucci – I am concerned with the style, it's very different. I'm not sure that it rises to detrimental, but it definitely doesn't fit into the community.

Clancy – There has been a lot of revitalization of Maravista and there are a lot of old houses. This is the Applicants dream.

Morse – What is the proposed ridge height?

Foley – 33.5'.

Morse – The third floor is exactly 50% of the second floor?

Foley – Correct.

Public Comment

Theresa Kim, 45 Stowers Street - I live next door. All our neighborhood is single-floor and this is a 3 story house. I need to discuss with someone to represent me. Please allow me to get someone to talk with.

Duffy – Where do you live?

Kim - Next door at #45. I have to discuss this with someone.

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Finneran – Not by our code; its 2.5 stories. These meetings are noticed, and if there are people that want to come, tonight is their night. They have an approvable project, unless you can articulate a particular concern.

Morse – Any decision that we make is appealable. It sounds like you are concerned about the height?

Murphy – I'm not happy with it, it doesn't fit in; the houses on that street are all capes and ranches.

Morse - From a zoning perspective it fits, and we generally don't get into architectural design.

Murphy – It's supposed to fit into the neighborhood and it doesn't.

Stockman – The abutter is asking for a continuance; the hearing does get noticed in the paper, but it doesn't give people a lot of time to get representation.

Finneran – There's someone that's with her that could speak, but doesn't want to. She didn't mention any concerns other than 3-stories, which is not accurate.

Clancy – I think it's important to go over my presentation; we do meet the standards of zoning. I personally applied for a special permit in the 80's and built an octagonal shaped house. The town is changing. The architecture across town is changing. I think that it's a nice design, and I think we will see houses change overtime

Potamis – I have sympathy but the Town is changing.

Duffy – I appreciate the comments that it doesn't fit in, but the owner of the property is entitled to build what they want. The height conforms, and we don't have much ground to stand on for the style. I think their presentation is acceptable to me.

Finneran– I don't have any objections,

Morse – While I agree that it is radically different we aren't the architect review board and it isn't in a historical district. The height is higher but it's within the Bylaw.

Petrucci – I think with the shingles it fits in a bit better, but throwing a contemporary home in the middle of the neighborhood isn't the best idea. But everyone has their own taste and there aren't any other letters of opposition.

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

Finneran made a motion to grant application #068-23. Duffy seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 7,310 s/f located within the Residential C zoning district, Great Pond Coastal Pond Overlay District
- 2) Property on the Little Pond Sewer
- 3) Public road
- 4) Proposed lot coverage 21.2% / 32.6%

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- 5) height 33'.5"
- 6) 4-bedrooms
- 7) Lot comparison worksheet submitted
- 8) 1 neighbor in opposition regarding height
- 9) Revised plans submitted

Conditions

- 1) Per plans
- 2) Construction Hours: Monday – Friday 7A-7P, Saturday's 8A-4P; no Sunday's or Holiday's absent an emergency
- 3) Height certificate and square footage confirmation of third floor at framing
- 4) Comply with the Engineering Department's comments
- 5) Comply with the Water Department's comments
- 6) Vehicles and Materials to be kept on site
- 7) Dark sky compliant exterior lighting

All in favor.

Application #	Applicant Name:	Address:
0108-23	Martin Kriss	Ostauer Road
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / fee	7/17/23	Clancy
owner / app. authorization	S	S
L/C worksheet		
POA agreement		
(9) copies site plan		
(9) sets of plans		
Request Abotks	7/18/23	ⓐ
Request retnls	7/18/23	ⓐ
Email to Rep	7/18/23	ⓐ
Refuel H2O	7/18/23	ⓐ
Refuel - Assessors	S	S
Refuel - Fire		
Refuel - planning	7/19/23	ⓐ
Cent. Abotks list	7/25/23	ⓐ
Refuel - Eng.	8/9/23	ⓐ
Refuel - Con Com	8/17/23	ⓐ
Refuel - death	8/25/23	ⓐ
Email - Con Com	8/15/23	ⓐ
Email from GClancy	9/12/23	ⓐ
letter of Buildability	9/13/23	ⓐ
Buildable lot review	9/14/23	ⓐ
email Brian Foley	9/12/23	ws.

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#069-23 Tor, 10 Melrose Avenue, Falmouth – requesting a modification of Special Permit #90-79 to allow alteration to the existing, nonconforming dwelling to include an addition, expansion of the 2nd floor and porch / deck additions

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

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

Planning – no comment

Fire – no issues with the project as drawn

Conservation Commission – no comment

Engineering - comments; drywells are proposed as recommended; comply with Town's "Soil Erosion and Sediment Control Standard Conditions"

Email dated August 25, 2023 from Scott McGann, Health Agent

Correspondence – 2 letters with concerns regarding runoff

Kevin Klauer, attorney for Applicants – The Applicants are seeking permission to alter the existing, nonconforming structure. This property is located on the western side of Falmouth Heights in a very dense, residential neighborhood. This lot is 6,312 s/f located in a Residential C zoning district. Presently, there's a 3-bedroom, single-family dwelling, with a footprint of just under 1,800 s/f. The property is nonconforming to the front yard setback being 21'9", and lot coverage by structures being 28.5%. The Applicants are proposing a modest addition, a slight expansion of the existing second floor space, and reconfiguration of the existing decks. This proposal will eliminate the nonconforming front yard setback, being improved to 26'.7". Lot coverage by structures will be slightly improved from 28.5% – 27.8%. There will be no change in the bedroom count; it will remain at 3. The proposed ridge height is 24'3 ½": Attorney Klauer opined that the project meets the criteria of the 240-10.2A, 240-11.3A(4) and 240-12.1E. There are no new nonconformities being created, and the existing nonconformities will either be improved or eliminated. I did review a copy of both letters and have had discussion with them. We are proposing 3 new drywells, which will represent a significant improvement for the drainage. All of the proposed downspouts will be tied into the drywells; currently most of the downspouts discharge at grade. The Engineer did go out to the property, in advance of the storm, to install silt bags and erosion fencing. This project represents an improvement over the existing conditions.

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Petrucci – This fits in very well and I see no issues. My concern rests with the water runoff. I walked the property and I do see how #9 is lower. As long as the wells take care of it, I don't have any issues.

Klauer - I don't think that we can stop all the stormwater, and I don't believe it's the Applicants issue to stop it all, but it is our job to make it better. There are other properties that create runoff, and there is a series of houses on a hill.

Morse – I am satisfied with the addition of drywells.

Finneran – I saw the pictures of the foundation and the problems; I would just like to see you do as much as you can; anything that you're going to do to manage stormwater runoff will be an improvement.

Klauer – This is a situation where neighbors can be neighborly.

Duffy – What is the proposed ridge height?

Klauer – 24' 4 ½”.

Duffy – Are there currently any drywells?

Klauer – There presumably is 1 on site, but I don't know if it's working. We are proposing 3 new drywells.

Duffy – There's a lot of water flowing down the hill, but you do have 3 drywells proposed.

Public Comment -

Jim Fox, on behalf of owners at 9 Vernon Avenue – There was some clearing done on the site, and we are in favor of the project; we're not trying to stop it. I have had meeting with many Town departments including the DPW, and there is a serious water issue. There is extreme flow with it, and it brings a tremendous amount of water onto the Arnstein's property. The stormwater is taking out the foundation of the abutting house; it sounds like the Applicants will do everything they can to improve the situation. They [9 Vernon Avenue] are in the middle of a renovation project, and the stormwater has stopped the whole thing. We realize it's not the Applicant's issue, but wanted to point these serious issues out to you. There are no catch basins or drywells on the street, and it is hurting the abutters.

Finneran – Has the Town investigated installing a berm?

Fox – They haven't done anything yet; I just brought it to their attention yesterday.

Petrucci – These drywells are only taking the roof water, not the water from the street.

Fox – That's the problem. The water needs to be moved around and down the road. We just want them to capture the most rainfall possible.

Catherine Kaladin, 29 Tower House Road – The new plan blocks my view, and I feel that they put the porch on as an addition; they've come here before, they have enlarged it to a 2nd floor, and it feels strange with the view on the northwest side. I think the design is lovely but I'm not sure that it belongs on this lot. I'm also concerned about the lower level. I saw the plans and it is within all of the rules.

Finneran – Taking out the trees didn't cause this to happen, did it?

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Klauer – I don't think so; there was some mowing and weeding. This information came yesterday, and we have done as much as we can. We will do whatever we can to mitigate runoff. Berms, drainage, swales, will do a lot. As I mentioned earlier, they did install some silt fencing to be proactive for the incoming storm.

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

Potamis made a motion to grant application #069-23. Murphy seconded the motion. Motion carried 5-0.

Findings

- 1) Property is 6,312 s/f located within the Single Residence C zoning district, not within a flood zone
- 2) Previous Special Permit from 1979
- 3) on a Public Road
- 4) Existing lot coverage by structures is 28.5%\36%; proposed 27.8%\34.8%
- 5) Proposed ridge height 24', 4 ½"
- 6) Lot comparison worksheet submitted; average lot coverage is 29.22%
- 7) 2 letter with concerns regarding runoff
- 8) Testimony – Jim Fox stated concerns with runoff to abutter's property
- 9) Testimony for Klauer – Applicants will contain roof runoff, drywells will be installed
- 10) Installed silt barrier in advance of storm
- 11) Drainage needs to be installed by the Town
- 12) Nonconformities will be eliminated or improved

Conditions

- 1) Per plans
- 2) Comply with the Engineering Department comments
- 3) Drywells will be installed, and shall be maintained
- 4) Remaining 3-bedrooms

All in favor.

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#070-23 Clark, Trustee, 711 West Falmouth Highway, West Falmouth – requesting a modification of Special Permit #1737 to convert the existing 3-family into a duplex, and construct a new duplex structure

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

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

Assessors – no comment as presented

Historical Commission - ‘This Certificate of Appropriateness was approved by the Historical Commission on 5-9-2023. See the attached decision.’

Fire – no issues with the project as drawn

ConCom – no comment

Engineering - comments; condition the addition of drywells, rain garden or other stormwater infiltration measure; comply with section 99-1 ‘Affixing of legible numbers; time limit for compliance’.

Health - ‘A new septic system for 10 bedrooms as shown in the site plans was installed in 2022. This system is shown to be for the existing 2 structures and the proposed duplex. Health has no issues with this project as long as the total number of bedrooms from all 3 structures doesn’t exceed 10 bedrooms.’

Correspondence –

3 letters with comments/concerns; 5 letters / emails opposition

Duffy –As member of this Board I have filed a disclosure on this project. I am on the Board of the Falmouth Housing Corporation and the Board hired Linda Clark as the Director. I realized that she is part of the family; she informed me she has no interest in this property, and I have filed a disclosure with the Select Board, and will proceed to participate in the case.

Morse –I do eviction work for Linda Clark, but I don’t believe I have a conflict, and I will file a written disclosure for the record.

Kevin Klauer, attorney – This property is located at the northern end of West Falmouth Village, across from the Shell gas station, on a lot that is just shy of an acre, at 41,734 s/f. The property is

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split zoned, B3 and Residential B. Currently, there are two existing dwellings on the property; there is a three-unit dwelling, closest to the street, which includes a 2-bedroom apartment, a 1-bedroom apartment and a studio. There is also a single-family dwelling at the rear of the Premises, which has 2 bedrooms. The front house is nonconforming to the front yard setback being 23', but otherwise conforms. Both of these houses were constructed in the 1900's; I'm not sure exactly when they were built, but they have been there for quite some time. There is an existing 1963 Special Permit on the property which allowed the division of the front structure into 3 units, but it is still nonconforming, because we have multi-family housing located in both B3 and Residential B sections. We are proposing to construct a new duplex located entirely in the Business zone.

The studio apartment in the existing 3-family will be eliminated, resulting in a total of 5 units. This project has been reviewed and approved by the Historical Commission and a Certificate of Appropriateness has been issued for both the proposed duplex and the fence. Proposed lot coverage by structures will be 9.1%, and total lot coverage will be 22.1%. The new duplex will be entirely within the B3 zoning district. There will be two, 2-bedroom apartments; there is no change to the cottage at the rear, and with the elimination of the studio unit, there will be a total of 5 dwelling units and 10 bedrooms in total. There was a 10-bedroom Title 5 Wastewater System that was installed last year. A new Title 5 system will be installed. Attorney Klauer opined the project meets the criteria of 240-6.6B, 240-10.2A and 2140-12.1E. This proposal will result in 5 units that will be added to the housing stock; it does not negatively affect the business zone, and the use is allowed. There have been a number of housing projects like this approved by the Board in this area. We are aware of the concerns from the abutters; much of the concerns and comments dealt with the condition of the site. The site has been significantly cleaned up, trash has been removed, and a new fence and plantings have been installed. This was per the Applicant's promise to the abutters, and consistent with the Historical Commissions approval. There was a claim that there is a 5th unit within the basement of the single-family dwelling; that is not true. There is a bedroom for the home, and the tenants have a son there periodically who stays with them. One of the letters stated that there are 3 home businesses being run from this site; this is not true. There is a concern that the basement will become a duplex apartment; it's a common laundry space, and it will have a basement with outside access for laundry with storage. We would be glad to condition any walk through by the Assessors. We have a significant need for rental units, and the rent here is at or below the affordable rates. What we are proposing will not change the parking or pavement, and we are below what is allowed by right. There was an email that was sent from Ms. Harlow-Hawkes who raised some good points and we would be happy to have those as conditions.

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Duffy – I did visit the site yesterday, and as Mr. Klauer stated, there was a company installing the fencing.

Finneran – Are there 2 bedrooms in the back unit?

Klauer – Yes.

Finneran – There will be 5 x 2-bedroom units, not to exceed 10 bedrooms?

Klauer – Correct.

Finneran – It makes sense.

Morse – Not to exceed 10 bedrooms, water service, dark sky compliant lighting, drywells, would you be amenable to those as conditions?

Klauer – Yes.

Murphy - I drove by and the yard did not look good at all; I wouldn't want it next to me. Will there be any screening from the parking lot?

Klauer - The house will screen the parking lot.

Murphy – From the neighbors?

Klauer – The fence was just installed today.

Murphy – Can trees be put in too?

Klauer – Trees were installed today as well.

Murphy – Can we condition that they be maintained?

Klauer – Yes.

Petrucci – When was the Special Permit granted for the 3-units?

Klauer – 1963.

Petrucci – It was prior to the 1988 case of Tofias v Butler. That case says when you join the lots together to get the acreage that you can get 6 units per acre, but it specifically says that one zone can be active, and the other has to be passive. In this case, they are both active. I wouldn't think you could build these structures.

Klauer – We have a pre-existing, nonconforming situation, where you have multi-family use in the Residential B section. Our proposed duplexes are only in the Business 3 zone. I don't think that I could propose a duplex in the Residential district. We are seeking permission for the duplex in the Business zone, and that is allowed under Tofias v Butler.

Petrucci – There is a lot of land here, could it be conditioned that there would never be a single-family, or any other units built in the back?

Klauer – You could, and I think that the Bylaw wouldn't allow that, because it allows only 6 units per acre; we are at 5 units for just under an acre. The Bylaw could change, so I rather not have a condition that would preclude us from taking advantage of whatever rights we may have, if the Bylaw were to change.

Petrucci – I'm struggling with this because of Tofias v Butler.

Klauer – What exists today is a pre-existing, nonconforming use with the multi-family. We are proposing the use that's allowed by Special Permit within the district that allows the use.

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Petrucci – Does it preclude you from coming back at some point, and proposing a structure in the back?

Klauer – We can't because the Bylaw wouldn't allow it.

Morse – You will have 10-bedrooms; how many parking spots?

Klauer – There's 8 in front, and a gravel space out back; you could fit quite a few cars there.

Finneran – What's the square footage for the front part in the Business district?

Klauer - I don't know the exact number.

Murphy – The other thing that bothers me is the affordability aspect of it; the units won't go towards our 40B stock, it takes away from it.

Klauer – I don't think it takes away from it. We are adding a net gain of 1 unit.

Public Comment

Anne Connolly, - I live in West Falmouth. There is a Facebook post for a fertilizer business at that property. We have been told by the man who runs it that it's a side job. Fertilizer and furnishing chemicals are noxious, and some of them are flammable. This is a market rate project, and while they may be renting it affordably, nothing precludes them from raising those rates. We have housing stock and the referenced comps that Mr. Klauer mentioned all sold for over a million dollars. Does the Board of Health inspect these yearly? Will these be rented by the week or weekend, and will there be anything to stipulate that? I would recommend that the Board continue, and get feedback.

Petrucci – Are you suggesting that there are unpermitted Home Businesses operating there?

Connolly – Yes.

Petrucci – And you have proof of that because you have a Facebook posting?

Connolly – Correct; there are multiple trucks, and a lot of heavy things that go with it.

Potamis – We don't do enforcement here; have you brought your concerns to the Building Department?

Brian Tulchoke, 40 Ambleside Drive – I did submit 2 letters into the record. Over the last couple of years, they have taken out a lot of foliage, and put in a large parking lot. It's not good for our view and the value of our property. We talked to Mr. Chagnon, and he said he would put up a big fence and trees, that would mask this parking from us. The fence does a pretty good job hiding the parking. I have no idea if there is any restriction on parking. The other main thing is the number of units. I would like to know if you could put restrictions on more uses.

Alison Jessup, 701 W. Falmouth Highway – I probably would have not bought the property, had I know that this was going to take place. I've been in opposition to the project for multiple reasons, and I have addressed concerns in the 2 letters that I've sent to the Board. The three family house has 3 tenants; one of which owns a fertilizer and irrigation business. He does operate the business out of the home; he is in the B3 district. I am assuming that the tenant in the

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studio unit will be evicted in order to make this a 2-family. In the back unit, they evicted a woman who had been there 30+ years, and moved Mr. Chagnon's mother into that unit. She does furniture refinishing; I received a written quote from her for work. It is a side business / hobby, but it is done in the back unit, in the Residential part, and it creates noxious fumes. There is a separate unit / entrance where his [Mr. Chagnon's] brother occasionally lives. You are looking at 5 existing units, plus the 2 units they are proposing, which gives you 7 units total. It's been unkempt and unpleasant to live next to.

Curt Jessup, 701 W. Falmouth Highway – I do object slightly to the relationship with Clark Trust and Mr. Duffy; I'm not sure how intimate the relationship is with Mr. Duffy and Mr. Morse. Mr. Chagnon has been great with the fencing, but I am concerned with the traffic. I can see this going forward, and not being maintained and monitored.

Morse – Some of the concerns I understand, and some need to be brought to the Building Inspector's attention; we have no enforcement powers.

Jessup – It doesn't look good; it's unattractive and I'm concerned about the impact of our property value.

Jim Fitzpatrick – I don't understand the whole process; we have neighbors that have not been good neighbors, they have cleaned everything up within the last month or two. It's profitable for them at our expense.

Morse – It's discretionary for the Board to grant a Special Permit.

Fitzpatrick – We would like the fence and plantings to mask the back of the property, and asked that they be maintained in perpetuity.

Cheryl Moniz, no address provided – It's close to the road, it shadows the existing house; the fence looks okay, but they took away the trees. Why don't they just fix what they have? This is not affordable for the regular person. It's too close to the road and blocks the existing house.

Tammy Bowman, no address provided - I echo everyone else's concerns. We now have this huge fence where there should be plantings in front of it. The parking is going to be an issue. It's not historic; it doesn't look good.

Ann Ellis, 704 W. Falmouth – All I see is junk; the whole yard is a mess. There was a woman that was evicted; she used to keep up with the yard, and it looked beautiful. There was a beautiful stone wall, and part of it was knocked down; it looks really bad. There is another stone wall out back; is that going to remain?

Klauer – The Bylaw requires 2 parking space per unit, and the lease is limited to 2 cars per unit. There was a comment about the prior approvals for sales of a condominiums; I don't see how that is relevant. No one here is being evicted, none of the existing tenants are being evicted. We will have 2 new units and potential solutions. The basement in the back is not a unit; it is just a bedroom. There is no kitchen. Yes there is a walk-out basement; there is no prohibition on that. There is one bedroom upstairs. There is enforcement available for potential issues with anything that is approved by this Board. We have 4 units on site; we are eliminating 1, and constructing

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one new duplex. You have any number of properties that have been redeveloped under the same Bylaw. The fence that was installed was approved by the Historic Commission. The setback is 25', and we exceed that at 35'. The stone walls are staying.

Potamis – Is there a home based business there?

Klauer – It's certainly not a contractor's yard. There was never a comment brought to the owners that anyone had a concern with the property.

Potamis – Is there a home based business?

Klauer – I was told not; we have testimony that there is. It can be conditioned that there be no home-based service business without approval from the Board.

Finneran – You're allowed 6 units per acre in B3; you have just over 1½ an acre. You can't have a duplex there. It would give you 3 total units in the front.

Klauer – Tofias v Butler is very clear, we have an existing nonconforming use; you can use the total square footage of the lots.

Finneran – You are allowed 6 units per acre, so you would be able to have 3 units.

Klauer – You take into consideration the entire lot.

Duffy – I would like some clarification about the fence. You said it was approved by the Historical Commission?

Klauer – Yes, they approved it some time ago.

Murphy – How do you handle snow removal?

Klauer – The snow removal would be the same if we have the duplex or not.

Jared Chagnon, property manager – We generally push the snow up between the buildings, if we have significant snowfall. We push the snow up against where the cars park, if they're not there. If they are there, we push it up towards the lawn.

Murphy – Where do these 6 apartments put their storage? Where does the tenant that has the irrigation business put his stuff?

Chagnon – He keeps the stuff on his truck.

Murphy – What do we do about the furniture business?

Chagnon – It is a hobby; she has sold some things, but there is no profit made.

Murphy – Where are the chemicals being kept?

Chagnon – It's all latex paints; there are no chemicals. There is minimal storage now; these buildings are older. The new building will have some storage in the basement, and we could talk about outside storage.

Murphy – How will the mail and amazon deliveries work?

Chagnon – The packages are usually thrown in the front apartment. We do have mailboxes.

Petrucci – Which Bylaw allows you to have 6 unit per acre? I'm having a lot of trouble getting to yes on this. I think that it's a big question.

Klauer – It's the fact that it does exist; I wouldn't proposed this if it was new. Tofias v Butler says that you use the entirety of the lot. We are proposing 2 units within the B3 district.

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Potamis – Would you consider a continuation so we can seek a legal opinion?

Klauer – Yes.

Duffy – We have a different situation here, and I think Mr. Potamis has a good suggestion.

Finneran – I don't see the 4th unit in the front.

Murphy – Did Historic ask you to fix the wall?

Klauer – No.

Duffy made a motion to continue to October 19, 2023. Finneran seconded the motion. Motion carried 5-0.

All in favor.

Application #	Applicant Name:	Address:
170.23	Clark Trustee	711 West Pal Hwy
Document (s) Submitted:	Date Submitted:	Submitted By:
Application/see	7/21/23	Klamm
owner authorization))
SP#1737		
Aerial photos		
Cert. of Appropriateness		
(9) copies site plans		
(9) sets area plans		
Request abutten	7/25/23	Ⓟ
Request referne	7/25/23	Ⓟ
Cert. Abutten list	7/27/23	Ⓟ
Determination of App	7/28/23	Ⓟ
Refence - Eng.	8/14/23	Ⓟ
Refence - ConCom	8/23/23	Ⓟ
Refence - Staff	8/25/23	Ⓟ
Refence - ConCom	8/25/23	Ⓟ
letter - Tulchok	9/10/23	Ⓟ
letter w/ pictures Jessup	9/12/23	Ⓟ
letter w/ photos - Tulchok	9/12/23	Ⓟ
letter opp. Fitzpatrick	9/13/23	Ⓟ
Email J. Fortenau	9/13/23	Ⓟ
Disclosure Duffey	9/13/23	Ⓟ
letter opposition - Adesip	9/14/23	Ⓟ
letter opposition - A. Connolly		

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Open Meeting

1) Vote Minutes: August 24, 2023 and September 7, 2023 – tabled

2) Board Discussion

Finneran – I hear that the Planning Board is having a hearing regarding revisions to the Bylaws, and we were supposed to have a copy of those revisions email to us. When is that meeting? I'm interested and would like to go.

Potamis – Can we get a copy of that in advance of the meeting?

Murphy – I was watching the Planning Board's meeting the other night and Cornock had some document about housing numbers? Can you get a copy of that for all of us?

Stockman – The Housing Committee has a website and that would be posted there. The current Subsidized Housing Inventory (SHI) list is posted on the Town's website

3) Board Updates - none

4) Future Agenda Items – Next meeting, October 5, 2023.

Meeting adjourned 8:45PM

Respectfully submitted,

Ashley E. DeMello, Office Assistant
Board of Appeals