

Zoning Board of Appeals
Minutes of October 5, 2023 at 6:00PM
Zoning Administrator: Noreen Stockman
Present: Morse, Finneran, Duffy, Murphy, Peterson
Absent: Petrucci, Potamis

Public Comment – none

(Continuation)#061-20M ECO Land Development LLC, “0” Percival Road (lot 4)

Teaticket – requesting the Board to review revised plans for a Comprehensive Permit pursuant to mediation assented to by the parties during the Applicant’s HAC appeal

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

Correspondence – 3 letters in opposition; J. Scala, C. Swain, R. Kowal

Peter Freeman, attorney for Applicant – I think that it’s appropriate to strike that letter (J.Scala) because it was agreed when the hearing was re-opened at the last meeting that it was strictly to obtain a certified plot plan of the layout of Trotting Park Road, which was done. Those comments are outside of the scope of what was agreed as “new information”.

Morse – The motion was made to re-open the hearing, but it wasn’t specified as to the issue that you are raising; it was a general motion to re-open.

Freeman – The purpose of this hearing was to get the site access revised, and verify that the 3 mailboxes that are within the sight triangle should be removed, and are within the right-of-way. We believe the project is safe. We are hoping that the hearing will be closed tonight.

Murphy – How are we handling the mailbox removal with the post office?

Freeman – I don’t know if the post office needs to be directly involved. If the owners don’t remove them, the Town can direct the DPW to remove them from the right-of-way.

Finneran – It was stated that the people that own the mailboxes asked the Post office to move it up Percival Road but they were denied. Now that they have told the Applicant that he can have individual mailboxes, they should be able to move them around the corner.

Freeman – I think it’s logical, but I don’t want to represent that.

Murphy – Did you check that the Post Office will definitely deliver to 12 individual mailboxes within the development?

Monterio – You can either do individual boxes or a gang box.

Murphy – And you have permission to do so, and you are going to go with the 12 individual boxes?

Monterio – Yes.

Murphy – They are very strict with mailboxes, and they have standards. There were a few other things like street signs and speed signs, can you explain those?

Monterio – You have to post a speed limit sign when you have subdivisions.

Murphy – There is one already on Trotting Park Road.

Monterio – My driveway comes onto Trotting Park Road and where there is a stop sign, we will have a speed limit sign posted at either 15-20 MPH within the development. We are abiding by what subdivision regulations would be.

Freeman – Signage would be an appropriate condition.

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Finneran – My concern is still the line of sight. I'm not going to vote for this if the line of sight isn't clear. Can we direct that the tree be removed?

Stockman – Not if it's on private property.

Monteiro – The tree that you're talking about is outside the line of sight.

Freeman – You have section 199 about trimming and removal of obstructions; the Town can initiate this process.

Finneran – That tree concerns me; it's in the sight line. I have seen too many accidents there and I'm not going to vote for it with those trees. I want to make sure that this Board can make this site as safe as possible. Have you reached out to the Salzmans [abutter]?

Jack Landers - Cauley, project engineer – Some of the biggest arguments have been about trees. We staked the layout; there is no staking of the sight triangle or view corridor. There is one bush that is in the view corridor when looking south. The rest of the site is cleared.

Finneran – There's obstructions in both directions. All of that greenery needs to be removed for safety. Kids are going to be congregating that at the bus stop by the mailboxes and you can't see through the tree that's there; all of that greenery needs to be removed. We can condition that all of the trees be removed out of the public right-of-way but we can't do anything about the tree on the private property. I spoke to the owner at 111 Trotting Park Road, and he believed that all of those trees were in the Town's right-of-way; that doesn't seem to be the case. It seems that you're going to have to negotiate with the land owner.

Freeman – Our engineer has repeated that that tree is in the public right-of-way. If you believe that's an issue, that would be an appropriate condition, but I don't think it's appropriate to deny the project.

Stockman – The trees in question are on private property; you don't have the authority to tell them to remove it, though there could be a negotiation with the property owners.

Finneran – If we make a condition and they aren't able to come to an agreement, what happens? I want all of the trees removed.

Murphy – What if the person doesn't want to remove the tree?

Freeman – I think that if you condition that with a timeline, and if there is a not settlement, we would have to come back here to figure something else out.

Stockman – I would recommend that you require removal of everything that is in the road layout, and then they should negotiate with the homeowner and discuss. It's in the interest of the Town that people can see further down the road.

Duffy – I share Mr. Finneran's concerns, and I have a concern about Percival Road, and the runoff and drainage issue. In the event of an approval, it would put the burden on the Applicant to show a clear sight triangle of 250'. There are also bushes there; what would the developer do to comply?

Freeman – My understanding is that its vegetation, and that will be cleared. I think the only thing the Applicant can do is to meet with the neighbor and negotiate. We would have to make the effort, and if we can't achieve that, we would have to figure it out, and come back to this Board and ask for a modification.

Duffy – I think it's appropriate to put the burden on the developer to solve this and I'm disappointed that this hasn't been solved yet. The issue of the drainage, you had mentioned that in the common area it would be turned over to the HO and that doesn't give me much

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confidence. We should have some kind of condition that would force the developer to come back to fix it.

Freeman – The peer review was satisfied with the drainage. There will be a set of covenants and I will refer to the comprehensive permit. The maintenance would have to be part of the budget.

Duffy – How will the HOA be established?

Freeman – I'm not sure that entity matters; I would typically do it as a corporation. It would be either a formal trust or a corporation.

Duffy – You would be submitting for review and approval from either this Board or Town Counsel.

Freeman – I wouldn't object to that.

Finneran – There was mention about keeping the natural buffer. You would construct a fence where the drainage structures are?

Freeman – Yes. I think it's a reasonable suggestion, but I don't think that it's necessary to put it along the whole length of the area.

Murphy – What's the slope of the driveway?

Monteiro - .08 on the slope.

Landers-Cauley – We recommend 1%, because if it's flatter than that, it doesn't pave properly; but it will vary from each lot. I can't see it greater than 4%, but no less than .08%

Peterson – What is the feasibility for the residents of Percival to access the water supply line? Was that ever in your original design that it could handle these potential water needs for either hydrants or drinking water?

Landers-Cauley- No, I hadn't anticipated that; there should be enough quantity and pressure to adequately service the houses.

Duffy – Will there be an agreement that the water main becomes town property with their inspection and there approval?

Monteiro – You would only be giving the town an easement to service the water lines, but it will still remain private.

Finneran – Is this a dead end water main?

Monteiro – It goes down the length of the road to Harness Drive; so it's looped.

Peterson – It was asked that all trees in the drainage area be preserved, and I hope that is yours and the developer's hope.

Landers-Cauley – That's correct, the way those systems are designed, you can plant any trees with roots.

Public Comment

Brian Wall, attorney for abutters (Harris, Overholtz) – I think that the discussion regarding the sight triangles demonstrates that even after 3 years, there are still questions about the level of information and certain issues we have been talking about the whole time. I went back to look at the Vanasse reports, and the results there are fundamentally flawed, and that makes this project unsafe. We believe that there are safety hazards, and the Board did properly deny this project the first time around; we would ask that you deny this time. They also identified the sight triangle with specific interventions. There was no explanation about the waivers being requested at the

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intersection of Percival and Rosewood, and there was no mention about the trees being on private property. I respectfully disagree with Mr. Freeman regarding the authority under section 199. I do not think that that is a permit or approval, and therefore I don't think that this Board has the authority to require that process to be undertaken with regard to private property. The Bylaw says the trunks of trees shall not be considered removal. Why didn't the developer simply resolve this with the property owner? The Vanasse report said that snow was a problem too, and the developer would have to access private property to remove vegetation and to plow snow when it gets too deep. We have heard Mr. Monterio say that he talked to the post office, but there is nothing in writing. Are the mailbox owners aware of that? They will want to know where their mail will be delivered to, and where the mailboxes will be relocated to. The developer did submit an extensive stormwater report for the 16-unit project that was denied; the developer revised the plans to 12 units. There has been quick discussions regarding this because the stormwater report was for 16 units and it has been reduced to 12, so they think because it's been reduced, they don't need to submit a new stormwater report. The road curvature adds more material because it's adding more length to the road, which adds more impervious material. There is 27% more lot coverage on this project, and the stormwater report has not been updated. These drainage basins that are inside the 20' vegetated buffer could be inadequate. We are concerned that flooding could add to my client's property, and there's a lack of safety concerns. We did submit some proposed conditions that we would ask the Board to look at.

Robert Kowal, 197 Percival Road – There has been a lot of talk about sight lines, but they keep looking to the south, but no discussion to the north. There is nothing in your records from the Chief of Police and DPW Director that they agree these trees are within the right-of-way, and then a hearing with the Select Board would proceed, and I would be compelled to remove them; you don't have this. There are 8 mailboxes; 4 are within the public road, and 8 are on my property. There is also nothing from the Postmaster with regard to the mailboxes, and I am one of those 8 mailboxes. The Town could compel me to trim the trees, but not to remove the trunks. If the abutter doesn't want to completely remove the tree, they wouldn't have to. The Town did come through and did the trimming, but there are still major obstructions to the sight lines.

Finneran – The real concern is the traffic coming from the south.

Peterson – Do you have any future use of the “pork chop” portion of the lot?

Kowal – Whether or not I have plans, I reserve the right to use it as I see fit in the future, and I would hope that no one comes on my land to tell me what I can and can't do.

Peterson – Have you spoken to the developer to see if there could be a better outcome?

Pat Harris, 181 Percival Road – The discussion about the fence was for the 22'-wide corridor that will be naturally vegetated, and then we find out at least half of the 22' wide strip will be cleared for the drainage. We have been asking that they put up a fence the whole length, where they aren't doing the full 22' buffer. One of the drainage basins is right next to my house, and I'm going to see right through to the development, which is not what we were initially suggesting. You can't see past the big shrubs no matter which way you come from. Having 180' long fence, vegetation and another section of 180' long fence will have a negative impact on the aesthetics of the road. There was a lot of discussion about the Town layout, but not emphasizing the Town layout and the sight triangle.

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Jen Scala, 6 and 10 Harness Drive – Montiero has not tried to talk us abutters. We agree that the intersection is a safety issue and that has always been a safety issue; there have been numerous accidents there. You need to have facts, from the Fire Department, Postmaster, etc. My land was surveyed, and they are at least 10' onto my property. How can you say this is a go project? Nothing makes sense.

Corrine Swain, Percival Road – Read a letter into the record, and asked that a fence be installed prior to construction. Construction workers cannot come in through Sandwich Road to access Percival, and they are to exit on Trotting Park, and not use Percival as a cut through.
Katrina Nevin, 179 Trotting Park Road – Everyone seems to agree that there are easier and better places to build things like this. It's disconcerting to see public service like this. She read a letter into the record commenting on box turtles.

Jessica Kowal, - I think that this should be declined; it was stated that they were supposed to go to the Post Office and Fire Department. Your logic is insulting. Everything that has been talked about is Trotting Park Road and a portion of Percival Road. In the time that this has been going on, there have been another 2 homes built.

Freeman – I will let you folks be the judge as to whether or not significant changes have been made. Attorney Freeman reviewed Attorney Wall's possible conditions as to what has been addressed. This project would be beneficial to the Town, and give another 3 units of housing.

Wall - The email that you have for the Fire Department has no reference to the plan.

Landers-Cauley – The drainage design is extensive and complex; it was reviewed by 2 peer engineers and they were satisfied. We have a very exact standard. The photos that were presented to you, I think were a little misleading. Two thirds of those mailboxes are on someone else's property.

Finneran – If the mailboxes are in the road layout, we can require they be removed. I will not take this lying down; we don't get paid to do this. There are letters in the file from the Fire Department, and it is in the file. This has been remanded back to us, and we are trying to make it as safe as possible. I don't see much here to deny. We will condition it, and make it as safe as we can for everyone. We don't have the information or ability to deny it.

Duffy – We are looking at this from scratch. A couple of people had made a point that section 199 applies only to trunks, but it doesn't say limbs, so you could clear that out.

Peterson – I think we should move to close the hearing and condition as much as we can.

Murphy – I have a problem with the relationship that the developer and abutters are having. It is on the developer to go and figure out what is going to happen. I have asked about the post office at every hearing. I want something in writing; it's too fluid for me. I agree that the construction trucks should not use Percival. It's sad that it got to this point; I'm having a hard time on how I'm voting.

Morse – I'm having a hard time with safety, and I want to make sure that the drainage is acceptable, based on the lot coverage that was submitted.

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Finneran - I think that we can condition it, and if the Conditions aren't met, they come back.

Duffy – It's our responsibility to come up with the conditions to protect the Town and abutters.

I've had this frustration that the presentation of this case has been lacking.

Morse – I'd like an opinion from Town Counsel about section 199. Can they actually clear those trees out to improve the sight lines? I would like written confirmation from the post office and negotiate with the abutter.

Finneran – My greatest concerns are the trees.

Freeman – I think that you can close the hearing and still get the opinion from Town Counsel.

Peterson made a motion to continue to 10 p.m. Murphy seconded the motion. Motion carried 5-0.

All in favor.

Peterson made a motion to close the hearing. Duffy seconded the motion. Motion carried 4-1 with member Murphy in opposition.

Stockman - I would recommend that the Board hold a meeting to review and vote the decision on October 26th; it will strictly be for this case.

Peterson made a motion to continue and review the draft decision on October 26, 2023. Murphy seconded the motion. Motion carried 5-0.

All in favor.

Application #	Applicant Name:	Address:
061-20M	ECO Land Dev.	0 Percival Road
Document (s) Submitted:	Date Submitted:	Submitted By:
Letter of request	3/22/23	Ⓢ
Revised plans	3/22/23	Ⓢ
Site review memo	}	}
letter from JECauly		
list of waivers		
Request ADULTS		
Request referrals	3/22/23	Ⓢ
Rec'd cen. Adults list	3/29/23	Ⓢ
Email opp. Scalla	5/3/23	Ⓢ
Email opp. Swain	5/4/23	Ⓢ
Letter opp. B. Wale	5/4/23	Ⓢ
Mullin Rule - SP	5/11/23	Ⓢ
Site distance assessment	5/17/23	Ⓢ
Site distance letter	}	}
Site distance plan		
TRIP generation plan		
letter - support	5/23/23	Ⓢ
Peer Engineer Review	6/8/23	Ⓢ
Email - S. Binette	6/19/23	Ⓢ
Applicants response ^{request} _{minutes}	6/22/23	Ⓢ
Revised plans	7/20/23	Ⓢ
Vanasse Report	7/20/23	Ⓢ
Revised site plans	8/14/23	Ⓢ
Correspondance	8/18/23	Ⓢ

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#074-23 Rocha / Lerner, Trustees 55 Bywater Court, Falmouth – requesting a Special Permit to construct a ½ story addition, increasing lot coverage by structures

Voting Members: Morse, Peterson, Murphy, Finneran

Member Duffy recused and left the room.

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

Water - The Water Department has no comment.

Planning – no comment

Fire – no issues with project as drawn

Health – Property on town sewer – see Wastewater Division for comments

ConCom - The Conservation Commission approved the above referenced project through a negative determination under a Request for Determination of Applicability. The plan of reference and approval paperwork are attached.

Engineering - Construction activities shall not cause erosion to or sedimentation into the abutting properties of Town right-of-way.

Correspondence – none

Kevin Klauer, attorney – The Applicants are seeking to alter the existing, nonconforming dwelling, with the expansion of a ½ story addition, which will result in a slight increase to lot coverage of 20.95%. This property is located off of Surf Drive, directly across from the beach in a dense residential neighborhood. This lot is 7,500s/f and located within the Residential C zoning district. Presently, there is a 3-bedroom, single-family dwelling, with a footprint of just over 1,500 s/f. The dwelling is nonconforming to lot coverage by structures only, but otherwise conforms. The Applicants are proposing a modest half story addition with a cantilevered deck, which will increase lot coverage to 20.95%. The proposed ridge height will be 34’, 5 ¾”. There will be no impacts to the nonconforming lot coverage, and with the approval of this Special Permit, no new nonconformities will be created. This addition will only add 68s/f to the lot coverage. The proposed room meets the definition of a bedroom, but in this sewer area, you are allowed up to 4-bedrooms by right. Attorney Klauer stated the project meets the criteria of the 240-10.2A, 240-11.3A(4) and 240-12.1E. We did submit a lot coverage comparison worksheet and this house is below the average footprint and within the range and in character of the neighborhood. There will be an increase in the bedroom count, but it’s allowed in this sewer district. The proposed alteration will be more useful for the Applicants.

Board Discussion

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Finneran – This is the second time in a row that I have been out to a proposed site and the stakes are marked “approximate”. Where is that coming from?

Klauer – I did ask and they said when they are placed, they will say approximate because they are placed via GPS; the surveys are done via instruments. I was told by one of the Engineers that they won’t be doing that going forward.

Finneran – It’s a great project.

Murphy – Is this RB or RC zoning; the plan says RB?

Klauer – The application says RC, and that’s what the Town has it listed in. We can submit a revised plan as part of the conditions.

Murphy – Is it also in the Historic District?

Klauer – It might be a part of the Registered Historic District, but it’s not within the Historic District.

Peterson – You’re well below the 25%; good project.

Public Comment – none

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

Peterson made a motion to approval application #061-20M. Murphy seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 7,500s/f, located within the Residential C zoning district; plans shows RB
- 2) Existing lot coverage 20.04%\24.36%; proposed 20.95% \ 24.97%
- 3) Proposed ridge height 34’ 5 ¼”
- 4) Property is sewerred
- 5) Received Conservation approval
- 6) Lot Comparison Worksheet submitted
- 7) 4-bedrooms allowed by-right
- 8) Increase is 68s\f; under 25% lot coverage. Will eliminate lot coverage nonconformity by issuance of a special permit
- 9) Meets criteria of 240-10.2A, 240-11.3A(4) and 240-12.1E
- 10) No opposition at hearing or in file

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Conditions

- 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 Engineering Department's comments
- 4) Comply with Conservation's approval
- 5) Height certificate at framing

All in favor.

Application # 074.23	Applicant Name: Rochy Lernu	Address: 55 Buwater Ct.
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / Lee	8/1/23	Klamu
Owner Authorization	}	}
LIC worksheet		
(9) Copies - Sit plan		
(9) sets arch. plan		
Request ADULTS	8/2/23	Ⓟ
Request referes	8/2/23	Ⓟ
Cert. ADULTS list	8/4/23	Ⓟ
Referel - fire	8/14/23	Ⓟ
Referel - Death	8/25/23	Ⓟ
Referel - Eng.	9/5/23	Ⓟ
Referel - ConCom	9/5/23	Ⓟ
Email - T. Bunker	10.2.23	Ⓟ

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#077-23 Hanwell, 15 Grove Street, North Falmouth – requesting a Special Permit to construct an addition and attached garage with habitable space above, exceeding 20% lot coverage by structures

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

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

Planning – no comment

Assessors – no comments as presented

Fire – no issues with the project as drawn

Health - Property in the New Silver Beach sewer area – refer to the Wastewater Department Division for comments

Engineering - The Applicant shall obtain an approved driveway permit and post any required bond with the Engineering Division prior to start of Construction. The Applicant shall complete the work as approved by the Engineering Division in the driveway permit; infiltration measures are proposed for the roof areas as we typically recommended; defer to the Conservation Commission for stormwater

Email dated September 7, 2023 from the Conservation Agent

Email dated September 18, 2023 from the Acting Water Superintendent

Email dated October 3, 2023 from Alissa Bergeron, Conservation Agent

Email dated October 5, 2023 from Amy Lowell, Wastewater Superintendent

Correspondence – none

Kevin Klauer, attorney for Applicants – The Applicants are seeking permission to alter the existing, nonconforming structure. This property is located at the northern end of the New Silver Beach area, in a very dense and seasonal neighborhood. The lot is 9,444s/f located within the Residential C zoning district. Presently, there is a 2-bedroom, single-family dwelling with a footprint of 1,740s/f. The property is nonconforming to the front yard setback being 16.9’, the side yard setback to the west being 1.5’, but otherwise conforms. They are proposing an addition and a garage with a master suite above. The side yard setback will be improved to 5.8’, lot coverage by structures will increase to 25%, but will eliminate that nonconformity with the issuance of a Special Permit. There will be an increase to the bedroom count to 3, which is allowed by-right in this sewered area. The proposed ridge height will be 22’ ¾”. Attorney Klauer opined that the project meets the criteria of 240-10-2A, 240-11.3A(4) and 240-12.1E. We did submit a lot comparison worksheet, and there are 7 homes with a larger gross floor area and 5

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with larger footprints. This will be a significant improvement for the Applicants and will make for better use of the property, and also provide garage space.

Boar Discussion

Peterson – We probably would want a certified foundation plan where you’re going right up to 25%.

Finneran – It’s a good improvement.

Public Comment

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

Peterson made a motion to grant application #077-23. Murphy seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 9,443s/f located within the Residential C zoning district, Wild Harbor Coastal Pond Overlay, and located within the AE 15 flood zone
- 2) Public road
- 3) Sewered area; allowed 3-bedrooms by-right
- 4) Proposed ridge height 22’3 ¾”
- 5) Lot comparison worksheet submitted
- 6) Application is in front of the ConCom
- 7) Existing footprint 1,750s/f; proposed 2,360s/f
- 8) Proposal will eliminate or improve the nonconformities
- 9) No opposition at hearing or in file

Conditions

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

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- 6) Foundation As-built to be submitted to the ZBA
- 7) Remove deck, shed at northeast corner and not replace
- 8) No additional lot coverage

All in favor.

Application # 077-23	Applicant Name: Hanwell	Address: 15 Gray St. N. Fed.
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / see	8/4/23	Klaum
Oumu authorization	S	S
4/c worksheet		
(2) photos dwelling		
(9) copies plot plan		
(9) sets and plans		
Request Abandon	8/7/23	ⓧ
Request references	8/7/23	ⓧ
Interim - planning	8/7/23	ⓧ
Referral - Assessors	8/8/23	ⓧ
Referral - Fire	8/14/23	ⓧ
Referral - Death	8/25/23	ⓧ
Referral - Eng.	9/5/23	ⓧ
Email - Con/Com	9/7/23	ⓧ
Referral - H2O	9/18/23	ⓧ
Email from Con/Com	10/2/23	ⓧ

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#078-23 McCormick, 43 Salt Pond Road, Falmouth – requesting a Special Permit to remove a portion of the existing deck and construct a second floor addition over a portion of the dwelling

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

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

Conservation - The Conservation Commission approved the above referenced project through a negative determination under a Request for Determination of Applicability. The plan of reference and determination are attached

Engineering - standard comments; Construction activities shall not cause erosion to or sedimentation into the abutting properties or Town right-of-way.

Health - Property is on town sewer so no comments from Health.

Assessors – no comment as presented

Fire – no issues with the project as drawn

Email dated September 18, 2023 from the Water Department

Email dated October 5, 2023 from Amy Lowell, Wastewater Superintendent

Correspondence – 6 letters of support

Laura Moynihan, attorney for Applicants – The existing house was built in 1947, there is a 1-story home with a garage and 3-bedrooms. The lot size is 8,410s/f located within a Residential C zoning district, and located within a sewer service area. The existing lot coverage is nonconforming at 29%, but the total lot coverage conforms at 38%. The home is also nonconforming to the side yard setback being 9.8’, and the front yard setback is 21.1’ to the step which is not attached to the structure, but 25’ to the dwelling. The existing building height is 17’. The proposal calls to remove the 3 bedrooms and add a master suite, enlarge the kitchen and living area, add a second story over the garage, and relocate bedrooms onto the second floor. Under the Sewer Bylaw in this area you are allowed up to 4- bedrooms by-right. The existing deck will be removed and the proposed height will be 23’. There is a slight decrease in lot coverage by structures to 28.2%; total also decreases to 37.6%. This will be an improvement to the house exterior and outdated interior spaces. Utilities will be moved from the crawl space to the first floor. The water service is already at 1”, and there won’t be any issues with the sewer connection. Attorney Moynihan opined that the project meets the criteria of the bylaws. I also submitted a lot coverage worksheet analysis showing there are neighboring properties that exceed 20%; this proposal does fit into the neighborhood, and we did have 6 letters of support.

Board Discussion

Morse – What is the proposed ridge height?

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Moynihan - 23’.

Public Comment - none

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

Peterson made a motion to grant application #078-23. Murphy seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 8,410s/f located within a Residential C zoning district, Salt Pond Overlay, AE 12 flood zone
- 2) Public road
- 3) Proposed ridge height 23’
- 4) Existing lot coverage: 29% \ 38.4%; proposed 28.2% \ 37.6%
- 5) Property is sewerred
- 6) 6 letters of support
- 7) Lot coverage worksheet submitted
- 8) 4-bedrooms allowed by-right
- 9) FEMA worksheet submitted
- 10) Nonconforming to side yard setback 9.8’ and front yard to steps 21.1’
- 11) Meets criteria of 240-10.2A and 240-12.1E

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) Comply with the Engineering Departments requirement
- 4) Comply with the Wastewater Departments requirements
- 5) No additional structures

All in favor.

Application #	Applicant Name:	Address:
078.23	McCormick	43 Salt Pond Rd
Document (s) Submitted:	Date Submitted:	Submitted By:
Application/see owner authorization L/C worksheet FEMA Flood zone (9) copies site plan (9) sets arch. plans	8/8/23	J. Manihan
Request referals	8/9/23	(initials)
Request Abutters	" "	(initials)
Referral - fire	8/14/23	(initials)
Cert. Abutters list	8/14/23	(initials)
Referral - Engineering	9/11/23	(initials)
RDA approval	9/11/23	(initials)
ConCom referral	9/13/23	(initials)
Referral - H2O	9/18/23	(initials)
Referral - Health	9/20/23	(initials)
letter - support - Buchanan	9/20/23	(initials)
" " "Hearn	}	
" " "McCormick		
" " "Anderson		
" " "Ingno		
" " "Conventsky	9/26/23	(initials)
Referral A. Duval	10/5/23	(initials)

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#079-23 Munson / Staine-Pyne, 88 Jewelers Avenue, East Falmouth – requesting a Special Permit to remove the existing shed and garage and to raze and reconstruct the existing, nonconforming, single-family dwelling

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

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

Planning – no comment

Engineering - drywells are proposed for the roof as recommended; comply with section 99-1 “Affixing of legible numbers required; time limit for compliance”; defer to the Conservation Commission for stormwater management and construction erosion controls

Email dated September 12, 2023 from Alissa Bergeron, Conservation Agent

Email dated September 18, 2023 from Michael Reghitto, Acting Water Superintendent

Email dated September 19, 2023 from Scott McGann, Health Agent

Email dated October 5, 2023 from Scott McGann, Health Agent

Correspondence – none

Kevin Klauer, attorney for Applicants – We are seeking permission to raze and rebuild the existing, nonconforming dwelling. This property is located at southern end of Central Avenue. The lot is just shy of 6,000s/f, located within the Residential B zoning district and within the AE13 flood zone. Presently, there is a 5-bedroom, single-family dwelling with detached garage and shed with a total footprint of 2,067s/f. The dwelling is nonconforming the front yard setback being 2.8’, the side yard setback to the west being 8.5’, and the side yard setback the east being 5.3’. The garage has a side yard setback of 9.3’, and lot coverage by structures is 34.8%. The dwelling was built in 1875, and was shifted to its present location in 1905. The Applicants have owned this property since 2022, but has been within their family since 1905. The house is in need of significant repairs. Where it is within the flood zone, the structure will need to be elevated to be compliance with the flood zone standards. The structure must be raised so that all habitable space and mechanicals are at least the 1’ above the flood zone elevation. Included within the submission was a Front Yard Designation letter from the Building Commissioner designating Horton Street as the front yard. There was also a letter from the Building Commissioner that the proposed gable façade is considered ornamental and not counted toward the height. The proposed dwelling reduces the clutter on the lot, eliminates the existing detached garage and shed, maintains the same number of bedrooms as existing, and there has been a new Title 5 septic system approved. The side yard setback to the east will be unaffected, lot coverage

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will be slightly reduced to 34.6%, the setback to the garage is eliminated, the front yard setback will be improved to 7.7', the side yard setback to the west will be conforming at 10.8'. The total lot coverage will be reduced to 35.77% and the proposed structure will comply with flood zone requirements. Attorney Klauer opined that the project meets the criteria of 240-10.2A, 240-11.3A(4) and 240-12.1E. The proposed house is larger than what exists, but is by no means an outlier in the neighborhood, and was designed to be in line with the neighborhood. We are aware of the comments from Scott McGann [Health Agent] and we would be happy to address his concerns with revised plans showing a cased opening. We would also be happy to submit a foundation As-built and a height certification at framing.

Board Discussion

Peterson – Great project. Cased opening for the office and remaining 5-bedrooms?

Klauer – Yes. There were certain variances required from the Board of Health for the proposed septic system. There were a few variances issued by them as part of their approval.

Morse – Nice project.

Finneran – Where was the septic system moved from?

Klauer – 70' to either the East. Tom Bunker just pointed out that the plan before you ended up being approved by the Board of Health without any variances.

Public Comment - None

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

Peterson made a motion to grant application #079-23. Murphy seconded the motion. Motion carried 5-0.

Findings

- 1) Lot is 5,940s/f located with a Residential B zoning district, AE12, AE13 and VE14 flood zones
- 2) Private road(s)
- 3) 35' proposed height without ornamental feature
- 4) Remaining 5-bedrooms
- 5) Lot coverage comparison worksheet
- 6) West side setback being eliminated, lot coverage being reduced to 34.04%
- 7) Correspondence from Building Commissioner regarding gable height and front yard designation
- 8) FEMA compliance
- 9) Meets criteria of 240-10.2A, 240-11.3A(4) and 240-12.1E

Application #	Applicant Name:	Address:
079-23	Staine - Pyne	88 Jewell St
Document (s) Submitted:	Date Submitted:	Submitted By:
Application / Fee	8/11/23	Klaum
Owner authorization	S	S
L/C lot coverage rules		
Front yard designation		
(9) copies site plan		
(9) sets arch. plans		
Request re knes	8/14/23	(S)
Request Abutters	8/14/23	(S)
Pre knel - planning	8/14/23	(S)
Revised plans (site & arch)	9/6/23	(S)
letter from BC (risk mgmt)	9/8/23	(S)
Con Com email	9/13/23	(S)
Referral - Eng.	9/15/23	(S)
Email - H2O	9/18/23	(S)
Pre knel - Health	9/20/23	(S)
Email - K. Klaum	9/21/23	(S)
Revised site / arch plan	10/2/23	(S)
Email - Health	10/4/23	(S)
Email - Con Com	10/4/23	(S)
Email - S. McGinnis	10/5/23	(S)

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10) No opposition at hearing

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) Per revised plans to include a cased opening to office
- 4) Comply with ConCom approval
- 5) Height Certificate to be submitted at framing
- 6) Foundation As-built to be submitted
- 7) No additional lot coverage or other structures
- 8) No habitable space in the basement; storage only
- 9) Comply with the Engineering Department's requirements
- 10) Comply with the Water Department's requirements

All in favor.