



# TOWN OF FALMOUTH

## ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

January 16, 2019

Zoning Board of Appeals  
Attn: Board Members  
59 Town Hall Square  
Falmouth, MA 02540

**RE: Minutes for Public Hearings and Open Meeting held on January 10, 2018 at 6:30 PM in the Selectmen's Meeting Room in Town Hall.**

Dear Board Members:

The attached minutes as referenced above are respectfully submitted for the Board's approval and to be filed with the Town Clerk:

Continuation(s): #075-18 George, 108 Gansett Road, Falmouth

**New Hearings: 6:30 PM**

#103-18 Augusta, 15 Clark Street, East Falmouth

#104-18 O'Brien, Trustee, 7 Priscilla Street, Teaticket

#107-18 Abrams, 217 Edgewater Drive W., East Falmouth

#110-18 Digiusto, Trustee, 2 Shore Road, North Falmouth

#111-18 Terra, 25 Harmony Street, Teaticket

**Open Meeting:**

1. Minutes December 13, 2018
2. Board Updates
3. "Procedural Rules" and "Policies"
4. Future Agenda Items

Terrence Hurrie, Chairman, Board of Appeals:

RECEIVED

JAN 18 2019

Date Minutes filed with Town Clerk:

Town Clerk Stamp

FALMOUTH TOWN CLERK

abc 9:30am

Respectfully submitted  
Joanne Robbins, Recording Secretary  
Noreen Stockman, Zoning Administrator

January 10, 2019 – 6:30 PM

Draft Minutes

Board of Appeals Public Hearings & Open Meeting

Selectmen's Meeting Room – Town Hall, Falmouth

PRESENT: Terrence J. Hurrie (Chairman); Kenneth Foreman, (Vice Chairman);  
Ed Van Keuren, (Member); Paul Murphy (Member);  
Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

6:30 PM - Open Meeting.

Chairman Hurrie called the meeting to order at 6:30 P.M.

Voting Members: T.J. Hurrie, E. Van Keuren, K. Foreman, R. Dugan, P. Murphy

Chairman Hurrie appointed R. Dugan as acting Clerk.

Continuation: #075-18 George, 108 Gansett Road, Falmouth – Special permit to raze and reconstruct 2 dwellings and garage and create accessory apartment in new guest house

Attorney Laura Moynihan, for the Applicant: Attorney Moynihan requested a continuance to January 31, 2019.

**A Motion** was made by K. Foreman to continue the hearing to January 31, 2019. **Second:** E. Van Keuren.

**Motion Passed: 5-0**

Mr. Hurrie signed the "Agreement for Extension of Statutory Hearing, Decision and Filing Deadline", which was filed with the Town Clerk on January 11, 2019.

January 10, 2019 – 6:30 PM

Draft Minutes

Board of Appeals Public Hearings & Open Meeting

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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

**A Motion** was made by K. Foreman to take the final agenda item (Open Meeting No. 5) out of order. **Second:** G. Potamis.

**Motion passed: 5-0**

Voting Members: T.J. Hurrie, K. Foreman, E. Van Keuren, R. Dugan, P. Murphy  
Chairman Hurrie appointed P. Murphy as Acting Clerk.

#057-18

40 Frazar Road, W. Falmouth

Board Administrative Approval - Minor modifications to previously approved plans.

The Applicant said he is adding one foot to the width of the dwelling, creating an overhang over the first and second floor, adding a small roof over the entrance, and increasing the height of the parapet by 1'6" without adding to the height of the roof of the dwelling. Total lot coverage creates a minor change.

Board Discussion: Applicant to provide updated survey and architectural plans.

**A Motion** was made by K. Foreman to approve the plan. **Second:** E. Van Keuren.

**Motion passed 5-0.**

January 10, 2019 – 6:30 PM

Draft Minutes

Board of Appeals Public Hearings & Open Meeting  
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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

New Hearings:

#103-18                      Augusta, 15 Clark Street, East Falmouth  
Special permit to construct detached garage over 900s/f

**Disclosures:**

1. Chairman Hurrie said he worked for the law office representing the Applicant (Bean & O'Connor) when the firm was formerly the Ford O'Connor Law Office.
2. E. Van Keuren disclosed he knows Attorney Collette.

Chairman Hurrie appointed R. Dugan as a voting member.

Voting Members: T.J. Hurrie, E. Van Keuren, K. Foreman, R. Dugan, P. Murphy

Acting Clerk, P. Murphy, read the Notice of Public Hearing into the record.

Referrals:

Engineering – Standard comments regarding drainage and rights of way

Correspondence:

None

Attorney Randall Collette, for the Applicant: Attorney Collette said the property is a multi-family dwelling on a 20,425 sf corner lot in Res C district. The proposed garage will be more than 900 sf, will have an on-grade slab, hedges to mask the proposed garage, new electric and gas lines and contains no habitable space and no bathrooms. Collette said the garage meets height, setback and lot coverage requirements. The Applicant will keep one boat and maintenance equipment in the garage. Collette said the location is the only suitable spot for the garage, as the septic system is in the back of the lot. The floor will be radiant heat and the height is 17 feet.

**Public Comments:**

Deborah Aguiar of 10 Sharon Drive asked if the garage will be replacing the home. Attorney Collette answered that it is not.

**A Motion** was made by K. Foreman to close the hearing. **Second:** E. Van Keuren.  
**Motion passed 5-0.**

**A Motion** was made by K. Foreman to approve the plan. **Second:** E. Van Keuren.

**January 10, 2019 – 6:30 PM**

**Draft Minutes**

**Board of Appeals Public Hearings & Open Meeting  
Selectmen's Meeting Room – Town Hall, Falmouth**

PRESENT: Terrence J. Hurrie (Chairman); Kenneth Foreman, (Vice Chairman);  
Ed Van Keuren, (Member); Paul Murphy (Member);  
Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

**Motion passed 5-0.**

Findings –

- No habitable space
- Is well below lot coverage max.
- There will be no bathroom.
- Does not create septic issues.
- Complies with 240-23G-1B

Conditions –

- Per plans
- No habitable space
- Must comply with Engineering recommendations regarding storm water mitigation and adequate drywells.

January 10, 2019 – 6:30 PM

Draft Minutes

Board of Appeals Public Hearings & Open Meeting

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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

#104-18 O'Brien, Trustee, 7 Priscilla Street, Teaticket  
Special permit to construct a dormer and convert ex.deck to a 3 season  
room

Chairman Hurrie appointed G. Potamis as a voting member.

Voting Members: T.J. Hurrie; E. Van Keuren; K. Foreman; P. Murphy, G. Potamis

Acting Clerk, P. Murphy, read the Notice of Public Hearing into the Record.

Referrals:

- Engineering- Drywells recommended
- Health Dpt. - Permit to tie into town sewer has been issued. A Certificate of Compliance has not been issued.
- Water Dpt. - Home has a one-inch water line.

Correspondence:

- One letter in support.

Greg Jones, Architect, for the Applicant. Mr. Jones said there are two non-conformities. One is the lot coverage currently at 21% and the other is the setback of 23.8' from the northeast corner where 25 feet is required. The Applicant proposes to put a full dormer at the back of the dwelling and convert the deck to a three-season room. The existing footprint will be maintained with no new non-conformities. There will be no change in ridge height, no increase in bedrooms and a bathroom will be added on the second floor. The property is connected to town sewer.

**Public Comments:** None

**Board Questions and Comments:**

R. Dugan asked if the Applicant intended to add drywells. Mr. Jones said Holmes and McGrath will include those on the plans.

**A Motion** was made by G. Potamis to close the hearing. **Second:** E. Van Keuren.  
**Motion passed 5-0.**

**A Motion** was made by K. Foreman to approve the plan. **Second:** P. Murphy.

**January 10, 2019 – 6:30 PM**

**Draft Minutes**

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PRESENT: Terrence J. Hurrie (Chairman); Kenneth Foreman, (Vice Chairman);  
Ed Van Keuren, (Member); Paul Murphy (Member);  
Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

**Motion passed 5-0.**

Findings –

- No increase in lot coverage
- Enhances usability of the site
- Not substantially more detrimental per §240-216.
- No increase in bedrooms
- Connected to town sewer
- Drywells will be added per Engineering recommendations.

Conditions –

- Per plans
- Add drywells as recommended by Engineering.
- Certificate of Occupancy must include sign-off by Board of Health regarding sewer.

**January 10, 2019 – 6:30 PM**

**Draft Minutes**

**Board of Appeals Public Hearings & Open Meeting  
Selectmen's Meeting Room – Town Hall, Falmouth**

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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

#107-18                      Abrams, 217 Edgewater Drive W., East Falmouth  
Special permit to construct addition to the 2nd floor

Chairman Hurrie appointed R. Dugan as an alternate voting member.

Voting Members:        T.J. Hurrie; E. Van Keuren; K. Foreman; P. Murphy, R. Dugan

Acting Clerk, P. Murphy, read the Notice of Public Hearing into the record.

**Referrals:**

Engineering- Standard comments - recommends drywells be added.

Health Dpt. - No more than three bedrooms per restriction in previous variance.

Water Dpt. - If footprint is altered, water line must be upgraded to one-inch service.

Richard Abrams, Applicant: Abrams said he proposes to add a second floor, for a master bedroom. The existing bedroom will be converted to an office, with a bathroom and closet. The shed was formerly sited over the northerly lot line, but has been moved to a conforming location. The roofline will meet the front line with a 50 sf overhang, which will be over crushed rock. The new master bedroom will be above the family room. Abrams said the proposal complies with §240-68A and D and §240-216 Sections A-G, will remain 22.1 feet from the road, will remain less than fifty feet from the three-foot contour, and meets lot coverage with proposed 15.6%. Abrams said the Con Com has issued a negative determination, and the sewage disposal is approved, contingent on remaining at three bedrooms. Abrams said the Water Department recommended an upgrade in service if the footprint was altered, which it has not.

**Board Questions and Comments:**

R. Dugan asked Abrams if he will add gutters or drywells. Mr. Abrams said there are no gutters at present, and no evidence of erosion.

Chairman Hurrie asked for an explanation of the existing bedroom conversion, and said the Board likes to see a cased opening, to ensure that the room will not be used as a bedroom after conversion. Chairman Hurrie also addressed the "evidence of no run-off" and the Engineering recommendation regarding drywells. The Board discussed the Concom Negative Determination and said that Commission would have addressed runoff issues if any were present, or required mitigation.

**Public Comments:** None



**January 10, 2019 – 6:30 PM**

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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

**A Motion** was made by P. Murphy to close the hearing. **Second:** E. Van Keuren  
**Motion Passed 5-0.**

**A Motion** was made by P. Murphy to approve the plan. **Second:** R. Dugan.  
**Motion passed 5-0.**

**Findings:**

- Non new non-conformities
- Shed was relocated on the lot to remove encroachment.
- Bedroom count is restricted to three.
- Converting existing bedroom to office, bathroom and closet.
- Complies with §240-216.

**Conditions:**

- There will be no more than three bedrooms.
- Per Plan
- Shed was relocated to remove encroachment.

January 10, 2019 – 6:30 PM

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#110-18                      Digiusto, Trustee, 2 Shore Road, North Falmouth  
Special permit to remove ex. storage shed, construct addition to 1st floor  
deck and enclose a portion of 2nd floor deck

Chairman Hurrie appointed G. Potamis as an alternate voting member.

Voting Members:        T.J. Hurrie; E. Van Keuren; K. Foreman; P. Murphy, G. Potamis

Acting Clerk, P. Murphy, read the Notice of Public Hearing into the record.

Referrals:

Engineering- Standard comments - recommends drywells and rain guards be added.

Attorney Kevin Klauer, for the Applicant: Attorney Klauer said the 11,629 sf lot is in Res B district at the entrance of the Bay Shores Community. It is a non-conforming dwelling with an 8.6' setback. The ridge height is 23' and will be unchanged. The Applicant proposes the lot coverage will be decreased by 12 sf when the attached storage shed is removed. There will be no new non conformities created, no new bedrooms added, a slight improvement to the existing non-conformity, no impact to views and vistas, complies with §240-216, and is not substantially more detrimental.

**Board Questions and Comments:**

R. Dugan asked about the stated 28.3% lot coverage and Attorney Klauer responded that the number includes coverage by parking and structures. He said the coverage by structures will remain 25%.

**Public Comments:** None

**A Motion** was made by G. Potamis to close the hearing. **Second:** E. Van Keuren.  
**Motion passed 5-0.**

**A Motion** was made by G. Potamis to approve the plan. **Second:** E. Van Keuren.  
**Motion passed 5-0.**

Findings:

- Consistent with §240-3 and §240-216.
- Not substantially more detrimental
- Shed is being removed.
- Reduction in lot coverage

**January 10, 2019 – 6:30 PM**

**Draft Minutes**

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Selectmen's Meeting Room – Town Hall, Falmouth**

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- Enhances utilization of the property.
- Existing setbacks will remain the same.
- Engineering recommendations regarding drywells
- No increase in bedrooms.

Conditions:

- Per Plans
- Engineering recommendations regarding drywells
- Shed to be removed per plan.

January 10, 2019 – 6:30 PM

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Board of Appeals Public Hearings & Open Meeting  
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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

Open Meeting:

1. Minutes December 13, 2018

**A Motion** was made by G. Potamis to approve the minutes of December 13, 2018. **Second:** R. Dugan. **Abstained:** K. Foreman and E. Van Keuren.

**Motion passes 4-0.**

2. Board Updates
  - a. Chairman Hurrie said he received an Email from Selectmen that the ZBA's Selectboard liaison for 2019 will be Doug Jones.
  - b. There will be a joint meeting between ZBA, Planning and Selectmen on Saturday, January 26<sup>th</sup>, at 8:30A.M. The subject will be water quality. On the agenda is: development issues, wastewater capacity allocation, Main Street roadway, and recodification.
  - c. The Selectboard said it received three applications to fill the ZBA voting member Board vacancy. The applicants are Mark Cool, Bob Dugan and Gerry Potamis. Filling the permanent position will create a vacancy for the alternate voting member. This will be addressed at the February 11<sup>th</sup> meeting of the Selectboard.
  - d. Member Paul Murphy said he was appointed as the Nantucket Building Commissioner and may need to resign as a ZBA member.
  - e. G. Potamis said he attended the Affordable Housing meeting where it was discussed to change the term "handicapped accessible" to "barrier free".
3. Discuss Date for Future Workshop – Tabled until new board appointments are made.
4. Future Agenda Items – None.

Next Scheduled Public Hearings will be held on January 17, 2019 at 6:30 PM – Selectmen's Meeting Room – Town Hall.

The meeting was adjourned at 8:00 P.M.

**January 10, 2019 – 6:30 PM**

**Draft Minutes**

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Respectfully submitted,  
Joanne Robbins, Recording Secretary

January 10, 2019 – 6:30 PM

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Gerald Potamis (Associate); Robert Dugan (Associate)  
And Zoning Administrator, Noreen Stockman

#111-18 Terra, 25 Harmony Street, Teaticket  
Special permit to construct addition

Chairman Hurrie appointed R. Dugan as an alternate voting member.

Voting Members: T.J. Hurrie; E. Van Keuren; K. Foreman; P. Murphy, R. Dugan

Acting Clerk, P. Murphy, read the Notice of Public Hearing into the record.

Referrals:

- Engineering - Standard comments – Do not direct storm water onto public property, rights of way, property of abutters.
- Health Dpt.- Sewer permit issued and sewer installed

Tom Bunker from BSS Design, Surveyor for the Applicant: Bunker said the property is in the Maravista section of Falmouth on the east side of Maravista and south side of Harmony Street and is in Flood Zone AE – Elevation 12. The existing dwelling is one story, on a crawl space due to the flood zone status and contains two bedrooms. The dwelling is 25' to the foundation, 20.4' from the front step, 18.3' on the west side, 43' on the east side and 26.7' at the rear. The lot coverage is 790 sf at 10.97%, or half of what is allowed. Lot coverage by parking is 15.7%. Public sewer is connected, utilities are adequate, and the property setbacks conform, except for the front step. The Applicant proposes to add a one-story addition, which will make the setbacks 25' and 19.8' on the sides. One bedroom will be converted to a study. The new floor will be 13.1" high to conform to flood zone requirements and will be 1" higher than the existing crawl space requiring steps going into the addition. This rise will create a bump to the roof which will be 18.3' high and well below the maximum allowed. Proposed lot coverage by structure will be 17.1%. By parking and structures will be 26%. There will be three bedrooms – four are allowed by the sewer permit – no impact on traffic or utilities, no impact on views or vistas and in keeping with the character of the neighborhood.

**Board Questions and Comments:** Chairman Hurrie asked about the crawl space height discrepancy between the existing and proposed structures. Mr. Bunker said the existing crawl space is below grade. The addition must be above grade to conform to code.

**Public Comments:**

Ken Foley, 28 Harmony Street, said he is in support of the plan.

**January 10, 2019 – 6:30 PM**

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**A Motion** was made by K. Foreman to close the hearing. **Second:** E. Van Keuren.  
**Motion passed 5-0.**

**A Motion** was made by R. Dugan to approve the plan. **Second:** K. Foreman.  
**Motion passed 5-0.**

**Findings:**

- Complies with §240-216 and 240-3C.
- Is connected to town sewer.
- Is a single story upgrade.
- New addition will conform to setbacks and flood zone requirements.

**Conditions:**

- Per plans