RE: Minutes for Public Hearings and Open Meeting held on January 17, 2019 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:

6:30 PM continuation(s): #097-18 Captain’s Quarters at Surfside Resort Condominium, 241 Grand Avenue, Falmouth

New Hearings:

#112-18 Pettit, 22 Anchor Lane, East Falmouth

#114-18 Munroe, 26 Ferry Lane, Waquoit

#115-18 Woods Hole Partners, 533 Woods Hole Road, Woods Hole

Open Meeting:

1. Minutes January 10, 2019
2. Board Updates
3. “Procedural Rules” and “Policies”
4. Future Agenda Items
5. Board Administrative Review – SP #097-17 Gary and Mary Ellis, 39 Rebecca Ann Lane, E.Falmouth; 1 year review for Home Occupation

Terrence Hurrie, Chairman, Board of Appeals:

[Signature]

Date Minutes filed with Town Clerk: [Stamp]

Respectfully submitted
Joanne Robbins, Recording Secretary
Noreen Stockman, Zoning Administrator
January 17, 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; Gerald Potamis (Associate); Robert Dugan (Associate)
And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

6:30 PM - Open Meeting.

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

Continuation(s): #097-18 Captain's Quarter's at Surfside Resort Condominium, 241 Grand Ave.,
Falmouth -Variance and mod. of special permit to construct elevator with shaft tower exceeding
35' in height

Chairman Hurrie designated E. Van Keuren as Acting Clerk.
Chairman Hurrie designated G. Potamis and R. Dugan as Alternate Voting Members.


Acting Clerk Van Keuren read the Notice of Public Hearing into the record.

Referrals:
   – Engineering - Application was reviewed for impact on rights of way. Work shown on plan will require a permit to work in the public right of way.

Attorney Robert Ament, for the Applicant. Attorney Ament said the property is bounded by four streets, shown on a site plan prepared by Holmes and McGrath. The property was developed in 1954 as a hotel, and a special permit in 1998 allowed a third floor. The building was expanded, and turned into timeshare condominiums. It is in a residential district, but commercial accommodations were allowed by special permit. The Applicant requests a permit to allow an elevator for disabled or elderly residents. Ament said the building was not designed for an elevator, so a driveway between the two buildings will be eliminated, to add a ten-foot wide structure for the elevator only. Two more handicap parking spots will be added and the total lot coverage will be slightly reduced at a total of 35.6%. The Fire Dept. requested the curb be opened up on Nantucket Ave. The original application for a variance to allow the elevator tower to exceed the existing roof was requested, but it will be withdrawn, if the special permit is granted, in order to keep the existing flat roof below the 35' height regulation. Attorney Ament said he felt the new condition to extend the pre-existing non-conformity does not qualify as substantially more detrimental.

Board Questions and Comments:
K. Foreman asked why the two additional parking spaces were needed, instead of more greenspace. Stephen Furrer, representative of Captains Quarters, said there are at present 34 parking spaces for 33 units and four employees on site. Parking has always been a problem,
and there is no on-street parking. Ament said even if the two spaces were not added, the space would stay a paved surface.

R. Dugan asked whether the PVC railing on the plan for the roof is decorative, and Attorney Ament responded “yes”.

Public Comments: None

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

Board Discussion:
The general consensus of the Board was that the changes were modest in the Heights area, that has a lot of asphalt, and the addition of two parking spaces outweighed the need for more greenspace.

The Chairman said the Board typically sees residential projects, but this is a commercial project requesting to become ADA (Americans with Disability Act) compliant.

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

Findings:
- Not substantially more detrimental
- Complies with §240-216 and 240-3C
- Adding two parking spaces
- Adding new access on Nantucket Ave.
- Staying within the 35’ height restriction
- Addition of elevator enhances utilization of property for residents.

Conditions:
- Applicant will provide revised plans showing removal of 35’ elevator tower
- As-Builts to be provided
New Hearings:

#112-18 Pettit – 22 Anchor Lane, East Falmouth Special permit to construct addition


Acting Clerk Van Keuren read the Notice of Public Hearing into the record.

Referrals:
- Board of Health - Permit for four bedroom septic – installed.
- Engineering - Standard comments regarding storm water and drainage.
- Water Dept. - Single family structure presents no water service impact.

Jeff Devlin, Builder, for the Applicant: Mr. Devlin said the purpose of the project was to provide a master bedroom and dining area. The bedroom count will remain the same. Title V septic system was added in 2011, rated for four bedrooms.

Board Questions and Comments:
The Board noted the 100 sf shed needs to be moved to meet the 10’ setback requirement. Devlin said the shed would be moved.

Public Comment: None

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: G. Potamis. Motion passed 5-0.

Findings:
- No increase in nonconformities
- Lot coverage is well below 20%.
- Improves and enhances utilization for the owners
- Ridge height is reasonable.
- Applicant agrees to move the shed to comply with 10’ side yard setback.
- Bedroom count will remain the same.
January 17, 2019 – 6:30 PM
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ABSENT: Paul Murphy (Member);

- New Title V septic in 2011

Conditions:
- Per plan
- Shed to be moved to conform to side yard setback.
- Bedroom count to remain the same.
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And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

#114-18 Munroe – 26 Ferry Lane, Waquoit Special permit to raze dwelling, guest house/garage
and construct a single-family dwelling


Acting Clerk Van Keuren read the Notice of Public Hearing into the record.

Referrals:
  – Engineering - standard storm water runoff and drainage
  – Board of Health - permit is for three bedrooms
  – ConCom - Thirteen conditions in December 21, 2018 Order of
    Conditions (in file).

Attorney Jeffrey Oppenheim, for the Applicant, Karen Munroe: Attorney Oppenheim said the
applicant resides in Wayland, Mass., but is moving to the Ferry Lane property, with two teenage
sons. The project was filed under §240-3C, and is proposed as a three-bedroom residence. It is
pre-existing nonconforming because there are two residences on one lot. Both are inside the 25’
setback to Ferry Lane. The accessory structure is currently within five feet of the Seapit (tidal)
River, but the proposed plan removes the accessory structure, and increases the setback from
the river to 37’. Oppenheim said the Applicant has eliminated all nonconformities, except for the
tidal river setback, which is 50 feet. Elevations show that the proposed three-bedroom house
will be 34.6’ in height. The basement will be unfinished except for a bathroom and utility room,
storage and mechanical areas. The driveway is off of Ferry Lane. New Title V septic is
proposed beyond the 100’ setback requirement. The detailed plan was submitted to the
ConCom who expressed 13 conditions, and requested extensive planting requirements. An
Order of Conditions was issued. The new home will be slightly larger with 14.5% lot coverage.
Attorney Oppenheim gave the Board a fact sheet showing existing and proposed conditions for
simplicity, and said the septic system has been upgraded, bedroom count reduced from four to
three, there is town water on site, drainage managed by multiple drywells, utilities and services
will be upgraded, and there will be two spaces for parking. The septic capacity is 333 gallons
per day.

Board Questions and Comments:
The Board asked Attorney Oppenheim if the Applicant would agree to two conditions: 1. No
plans to finish the basement; 2. Restricted to three bedrooms. Attorney Oppenheim agreed.
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And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

Public Comments:
Bob Wayland of 110 Seapit Road said he is opposed to the proposed plan. He said the
structure will be 60% larger than the existing dwelling, and creates an adverse effect for the
neighbors, by reducing their backyard space. Wayland said he believes the square footage to
be more like 4,000 sq ft, if the walkout is counted.

Mrs. Wayland of 110 Seapit Road said she is opposed to the proposed plan because it will
create an impaired view of the trees and water, when the three-story dwelling is pulled away
from the water, and closer to her property. She said there will be no buffer between the
properties, and the Applicant’s proposed house will be twelve feet higher than existing.

Katie Peterson of 108 Seapit Road said she wished the neighborhood could work together to
solve the issues.

Judy Laughlin of 127 Seapit Road said she is concerned about the protection of the forty-foot
right of way. She fears there will be vehicles parked in the right-of-way.

Attorney Oppenheim said the neighbors do not have a view easement, or the right to design the
Applicant’s home. He said there will be an increase in property values with the updating of the
100-year old structure, and removing some existing non-conformities. He said if the Applicant
chose to move the dwelling 50 feet from the tidal river, the abutters would have no right to
object, and the proposed project would no longer be in the purview of the Zoning Board.

Chairman Hurrie said the right-of-way is on private property, and the Board has no control over
it. Attorney Oppenheim said the proposed project is not in the right-of-way, which is the subject
of ongoing litigation. Oppenheim said the Applicant is a defendant in that litigation, has no axe
to grind, and has no fee interest in that right-of-way.

The Board asked if there had been storage or utilization on the right-of-way, and asked if the
Applicant intended to store boats or vehicles on the property. Oppenheim said the Applicant will
use the right-of-way, consistent with her legal rights.

More Public Comment:
Steve Johnson of 109 Seapit Road said he has a deeded right-of-way to go to the water, but
that there is a trailer with debris parked there, and he cannot get to the water.

Attorney Oppenheim responded there is ongoing construction of the seawall at the property.
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And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

A Motion was made by K. Foreman to close the hearing. Second: R. Dugan
Motion passed 5-0.

Board Discussion:
The Board consensus was that the property owner is well within her rights to construct what is
before the Board. Neighbors have no right to dispute the view, without the benefit of a view
easement. The property will be enhanced because of the removal of the nonconformities which,
in this case, only the encroachment to the water remains, and that has been improved. The
issues discussed by the neighborhood are not under the purview of the Board. The total lot
coverage is only modestly increasing, from 15.2% to 16%, and the height will be under the 35'
limit.

A Motion was made by K. Foreman to approve the plan. Second: E. Van Keuren.
Motion passed 5-0.

Findings:
- Setback from tidal river will improve.
- Front yard and side yard setbacks will conform.
- Improved septic to be further from the water than existing.
- Within the height limit
- Lot coverages moderately increasing
- Complies with §240-216 and 240-3G.
- A total of three bedrooms
- Applicant will accept the two limitations of unfinished basement and three bedroom max.
- There will be adequate parking.

Conditions:
- Per plan
- No more than three bedrooms
- Applicant to comply with ConCom Order of Conditions.
- As-builts required to confirm building height.

The Chairman called a five minute recess at 8:05 P.M.
January 17, 2019 – 6:30 PM
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And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

The Chairman called the meeting back to order at 8:14 P.M.

#115-18 Woods Hole Partners – 533 Woods Hole Road, Woods Hole Special permit construct
43 residential units throughout 7 buildings and restore the ‘Dome’ structure


Chairman Hurrie said this is the first hearing of this project, and anticipated there will be a need
for another hearing. There was a large number of correspondence received from the public.

Acting Clerk Van Keuren read the Notice of Public Hearing into the record.

Referrals:
- Engineering - Six pages of details in the file
- Board of Health – the property needs an advance treatment plan and approvals.
- Fire Dept. - Adequate access for emergency vehicles around property is required.
- Planning Board - Meeting scheduled January 22, 2019
- Historic Commission - Applicant needs to file with the HC.
- Letters of support: 65
- Letters in opposition: 26
- Letters with comments and concerns: 16

Attorney Kevin Klauer for the Applicant. Attorney Klauer asked for an allowance of thirty minutes
for his presentation.

A Motion was made by K. Foreman to allow a thirty minute presentation. Second: R. Dugan.
Motion passes 5-0.

Attorney Klauer said all of the principals of the project were in attendance. The property is a
5.41 acre parcel located .25 miles outside of Woods Hole Village and once had a 54-room
hotel, with a former 170-seat Dome Restaurant on the site. The Dome was constructed by R.
Buckminster Fuller in 1954. Klauer said the motel was run until 2004. Units were added to the
hotel in six phases. When the motel closed, the property fell into ruin. The previous owners,
Weiss, sought a permit in 2006, for 46 residential units. The owner obtained the necessary
permits from all Boards, but never went through with the project, because of the 2007 recession.
A Decision rendered by the Cape Cod Commission at that time is still in effect, and has been modified. A Certificate of Appropriateness was issued by the Falmouth Historical Commission. The Applicant wants to develop the site, which has fallen into a decrepit condition, and create a multifamily site, with a mixture of two and three bedroom units, including four units, to be affordable rentals, for a total of 43 units. Klauser said there will be an addition on the northeast side of the dome, to accommodate bathrooms, an elevator and storage. The exterior of the Dome will have public gardens and walkways. The multifamily use requires a special permit from this Board, as well as site plan review. An analysis of the property was done to ensure appropriate steps will be taken to preserve the historic Dome and Doug Kelleher, a preservation consultant, was retained, and he submitted a report.

Attorney Klauser continued: In January 2018, the site plan layout was voted on and eight units per acre and a covenant were approved (with an amendment) and are on file. The plan proposes:
- seven buildings and 43 units
- A 39-unit, age 55+ condominium community at 2.5 stories, within walking distance to Woods Hole Village, is proposed, with four affordable units that will not be restricted to 55+, but will conform to subsidized housing regulations.
- The Dome will be preserved, and the Covenant requires the Applicant to explore a proposed development of an arts center.
- There is greenscape, setbacks are greater than required, a new nitrogen-sensitive septic system will be installed, and that system will generate half the amount of nitrogen as proposed in the former application.
- Latest reports show no impact from traffic.
- The applicant will preserve the Dome, but remove the 1975 entry, and the hotel buildings.
- The Dome will have guards and walkways around the structure.

In regards to the Covenant for the Dome, the Applicant has been in discussion with The Dome at Woods Hole group, interested in creating an Arts Center (Dome Group). The applicant offered a 99-year lease, and initially received no response from this group. The Dome Group did finally respond, and asked for a gift of 1.5 acres, and control of the Center, as well as the Applicant to pay for infrastructure, and the wastewater facility, at a cost of $700,000. Klauser said despite those demands, the Dome Group refused to provide a timeframe for fundraising, or confidence of an assurance of its ability to raise funds. Klauser said the Dome Group feels the significance of the Dome outweighs the rights of the property owner. Klauser said a number of letters made reference to density. He said Woods Hole is not a pastoral setting- it has many shops and restaurants.
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And Zoning Administrator, Noreen Stockman
ABSENT: Paul Murphy (Member);

Attorney Klauer closed his presentation with the following:
- The previous development was approved by the ZBA and all other boards.
- The Dome has to comply with the Secretary of the Interior regulations as an historic
structure.
- This is an allowed special permit use, and not a request for a variance.
- This Board should not consider an application by another group which has no rights.
- Under §240-240G-1B, a multi-family use is allowed.
- It meets the standard of §240-216.
- The public is served by senior and affordable rentals.
- The ruins will be replace and the Dome will be restored and protected.
- The site is more than adequate, utilizing 40% of total lot coverage by structures and
parking.
- Half of the parking will be located under the buildings, and there will be negligible impact
on parking and traffic.
- Wastewater and drainage will be controlled on site.
- Utilities are adequate, there is no impact on public service, and there is a detailed
landscape plan.

Time 8:50 PM.

Board Questions and Comments:
The Chairman and the Board agreed that the hearing would not conclude tonight. The Planning
Board and the Historic Commission need to weigh in.

R. Dugan asked why the driveway easement doesn't show on the plans. Attorney Robert
Ament, also for the Applicant, said the present location of the easement, as shown on the plan,
does not work, because there are boulders in the way, so it will be changed. Attorney Klauer
said that the location of the driveway, and the easement, will be added to the plan.

K. Foreman noted the former owner's plan and said lot coverage by structures was 18.5%. The
proposed plan shows 19%.

The Board asked Attorney Klauer to submit his written presentation for the record.
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Attorney Klauer told the Board that the Applicant is seeking a modification from the ConCom, a decision from the Planning Board, restrictions by the Massachusetts Historical Commission regarding the preservation of the Dome, and a modification to the Certificate of Appropriateness, from the Falmouth Historical Commission. He estimated a timeframe for receipt of the aforementioned to be mid- to late spring.

Chairman Hurrie asked about the sewage disposal system. Klauer said Cape and Islands Engineering proposes two smaller de-nitrogen systems for Buildings B, C and D. A small system for Buildings G and F, and a much larger system, to handle the two big buildings on the plan. When asked for a target and monitoring plan, Attorney Klauer said the Engineer will work with the Board of Health.

Public Comments: In support of the project

Arnie Breckstein, 18 Chase Road, general manager of the Sands of Time Motor Inn (an abutter) said the proposed plan is a significant improvement to the previously permitted plan. He said the use of an Art Center by the objecting organization, would cause a traffic impact.

Michael Connolly of 87 Gunny Point said he was formerly the Secretary of State, and a 16-year Chairman of the Massachusetts Historical Commission. He stated he is in full support, and called the plan a great preservation project. He said he was not in favor of the Dome Group gaining site control.

Becky Connors, on behalf of Vito Realty Trust of 540 and 549 Woods Hole Road said she looks forward to the tasteful development of the property.

David Bruce of 14 School Street said he thinks the two buildings in the woods would be better placed where the former tennis courts are now located, to minimize the impact to the greenspace.

Michael Goldring of 44 Fern Lane said he is the only year-round abutter and is worried about losing views of winter sunsets. He presented photos to the Board for the record. He also said he will be directly affected by construction and noise. He would like to have conditions in place, to mitigate the impact of the construction. He said he would be against any plan for the Dome that includes parking.

Donald Estes, of the Landfall Restaurant, is in support of the project.
Beth Holt of 527 Woods Hole Road is in support of the 43 units, and the preservation of the Dome.

Public Comments: In opposition of the project

David Epstein of 15 Fern Lane said he is not a year-round resident, and expressed concerns about the project, and asked the Board to consider a larger historical framework. He said he is troubled over the density. He asked why the project did not consider connecting to the municipal sewer system. He said he is concerned about 24-hour monitoring for septic, in case of failure, as he is a direct abutter. He asked about a condition for an escrow fund, to be established for this purpose. He asked that venting of the system be as far away from houses as possible, asked for a construction ban during “open window” season, and asked that the largest building be completed, before the rest, to provide some noise abatement for Fern Lane residents.

Nicole Goldman of 12 Sydney Street said the project was ill-conceived, and insensitive to the preservation of the Dome. She said the higher density is a concern, and separated affordable housing creates a "second-class" status. She said the plan is for grossly overdeveloping the site, more crowding and emergency vehicle problems in the summer. She asked for a specific time-frame.

A Motion was made by K. Foreman to restrict additional comments to end no later than 9:45 P.M. Second: G. Potamis.
Motion passed 5-0.

David Fixler, representing the Dome group said he was speaking on behalf of the views of the Dome Group. Fixler said he is a preservation architect, and has been following the project since 2000. He said the Dome is an extremely significant structure, and he is concerned about the proximity of the new development, saying eighteen feet is not a sufficient buffer, around the Dome. He said there is not enough evidence that investigation has been done, and asked for an alternative to what is being proposed.

The Board asked Mr. Fixler what his recommendation is, if he feels 18’ is not enough setback from buildings. Fixler answered that he cannot give a number without a study, but suggested a better proportional relationship. The Board asked Mr. Fixler if he would consider the
recommendations not yet made by the Massachusetts Historical Commission. Fixler said, looking at the scale and building, it is too crowded.

Bob Moore of Rhode Island is on the Board of the Dome Group. He said the proposed plan has good intentions, but is not the best plan for the Dome. He said he researched the Dome, interviewed the original construction team, and has written comprehensive technical papers on the Dome. He said its legacy has global significance, and said it is about the viewshed, which was sweeping in 1954, and not just proximity. The immediate area around the project is at issue.

Jonathan Goldman of 12 Sydney Street said the history of the Dome property is very important to the Village. He said he felt 43 units is too dense and unsustainable.

A Motion was made by K. Foreman to continue the hearing to March 7, 2019 at the Falmouth Public Library Hermann Room. Second: E. Van Keuren. Motion passed 5-0.
Open Meeting:

1. **Minutes January 10, 2019**
   A Motion was made by K. Foreman to approve the minutes of January 10, 2019.
   Second: G. Potamis.
   Motion passed 5-0.

2. **Board Updates - NONE**

3. **Discuss Date for Future Workshop** – The Board will wait for announcements of new appointments for board vacancies to be made at the Selectman’s meeting on February 11, 2019.

4. **Future Agenda Items** - There will be a joint meeting of Selectmen, Water Dept., Planning Board and Zoning Board of Appeals on Saturday, January 26, 2019, at 8:30 A.M., to be held at the Falmouth Academy.

5. **Board Administrative Review** – SP #097-17 Gary and Mary Ellis, 39 Rebecca Ann Lane, E.Falmouth; 1 Year review for Home Occupation

   There being no objections by the Board,
   A Motion was made by K. Foreman to make the special permit permanent.
   Second: E. Van Keuren.
   Motion passed 5-0.

The Board reserves the right, by vote, to take items on the above Agenda out of order. Next Scheduled Public Hearings will be held on January 31, 2019 at 6:30 PM – Selectmen’s Meeting Room – Town Hall.

The Meeting adjourned at 10:00 P.M.
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Respectfully submitted,
Joanne Robbins, Recording Secretary