Falmouth Planning Board
Selectmen’s Meeting Room – February 26, 2019
Regular Meeting - 6:30 pm
MINUTES

Present: Jim Fox, Chairman, Pat Kerfoot, Vice Chairman, Paul Dreyer, Clerk/Secretary, John Druley, Robert Leary, Pamela Harting-Barrat, Charlotte Harris
Also Present: Tom Bott, Town Planner, Corey Pacheco, Assistant Town Planner

Chairman Jim Fox called the meeting to order at 6:31 PM.

J.Fox - Received a letter from the Woods Hole Group to return on March 12, 2019.

MINUTES: January 26, 2019 and February 12, 2019
MOTION by P.Dreyer/P.Harting-Barrat to approve the minutes of January 26, 2019 and February 12, 2019 as corrected.
Voted 7-0-0

PUBLIC COMMENT
None.

PUBLIC DISCUSSION:
Applicant: 797 Main Street, LLC – Site Plan Review application to construct a mixed use structure with a 2,700 ± sf restaurant on first floor and three residential units above located at 797 Main Street (CEG, p.c.)

Engineer Hal Choubah, Choubah Engineering Group - This is a redevelopment of an existing Cumberland Farms site. 0.43 acres 18,750 square feet; shy of 20,000 square feet required by the bylaw. It is an existing L-shaped building 1,850 square feet. keeping existing foundation footprint and squaring off the building by adding 800 square feet to the south. 94 per cent is covered with impervious surfaces. The existing building is pre-existing nonconforming. The new addition will be in compliance with the rear and side setbacks. We are proposing to close the eastern curb cut and add greenspace, eliminate parking in the front of the building, and add parking to the rear. There will be drainage improvements and all the runoff would be captured and kept on site. The new lot coverage will be 14 per cent. We can only accommodate 21 parking spaces for 30 seats and the apartments. This is in compliance with zoning. We are increasing green space by 21 per cent over existing conditions. The proposed building is 2½ stories. The restaurant is very small. This is in harmony with what this board has approved in the past.

Board members had concerns with the number of seats and parking.

J.Fox - I don’t see the elevations of the parking lot.

H.Choubah - We are collecting all the water from the back into the two basins.

C.Harris - The building looks top-heavy, it doesn’t fit the foundation. The windows are not in scale to the rest of the building on the second floor. It’s good you are putting residences above.

P.Dreyer – There are some good items but the visual impact of the building doesn’t seem to fit the area.

H.Choubah - We are going to modify the building and reduce the size of the dormers.
P. Kerfoot - I think this is too much for the site and the parking is insufficient. You might want to designate the parking for the apartments. I would like to see a much better landscape plan.

R. Leary - I think the side facade would look better as the front facade. It is too boxy and too big.

J. Druley - It is discouraging to ask for 30 seats but you’ve shown 60 on the plan. This business could do well here.

Grant Walker - I would ask the applicant to respond to energy efficiency and possible solar panels.

Jamal 815 Main Street - We have not been talked to as neighbors.

Continued to March 26, 2019.

PUBLIC HEARINGS:
Petitioner Articles for Spring 2019 Town Meeting
240-23 and 240-38 Accessory Apartments
Article 23 - Minimum Lot Size 7,000 sf in sewer service area
Article 22 - Minimum Lot Size 7,000 sf
John Banner, 7 Toledo - The working group overlooked the houses on the Maravista peninsula and now all of those lots are excluded. The Maravista lots are 7,200 square feet. ¾ of the homes in Maravista cannot meet the 7,500-foot criteria. This is the perfect location for accessory apartments as people don’t even need a car.

Mark Finneran - The main concern is nitrogen loading. In the sewer service area, there will be no nitrogen loading.

J. Druley - I prefer to support the lots that are sewered.

Virginia Valieila - I am concerned about these articles. The accessory bylaw originally required 15,000 square feet. I would not support this town-wide. I think the 7,000 is pretty small.

Gerry Potamis - We have to be careful when we put total limits.

MOTION by P. Kerfoot/R. Leary to take Article 22 and Article 23 under advisement.
Continued to March 26, 2019

Article 21 - Delete “Enhanced” from on-site septic system with nitrogen removal
Gerry Potamis - There were extensive discussions that had a consensus to approve this language until it got to the working group. No place else requires an enhanced system. This bylaw is discriminatory and works against the intent of the bylaw. The Board of Health would have discretion if it said “nitrogen removal system.” This is environmentally sustainable.

Virginia Valieila - This article was not on the agenda at last night’s meeting. The working group went through all of the issues.
Continued to March 12, 2019.

Article 25 - 240-111 Site Design – Consider solar orientation
Dan Webb - The LCP has an action plan that calls for the revision of solar.

R. Leary - I think that is a great place to add that.
J.Fox - I am concerned about the lot coverage ratio. I have no problem with it if it meets setbacks and zoning. I am afraid this will let people put these anywhere.

D.Webb - This article makes no mention of setbacks or lot coverage.

**MOTION** by R.Leary/P.Kerfoot to close the hearing and take under advisement.

Voted 7-0-0

**Article 24 - 240-13 Definitions – Substance Abuse Clinics, 240-48 Business Districts, 240-54 Permitted business, commercial and industrial uses**

**MOTION** by P.Kerfoot/R.Leary to indefinitely postpone.

Voted 7-0-0

**Article 19 - 240-250 Medical Marijuana Dispensaries – to comply with State regulations**

T.Bott - The article is to adopt the bylaw to comport with Cannabis Control Commission regulations and definitions. This is clearly a housekeeping measure.

**MOTION** by P.Harting-Barraty/R.Leary to recommend to the Warrant as printed.

Voted 7-0-0

**Applicant (cont): Blue Flag Development, LLC – Special Permit application to construct parking areas within the front yard and Site Plan Review application to construct improvements to Sippewissett Campground.**

Eliza Cox - The Board of Health has approved the wastewater treatment facility and also granted some relief. We have updated the site plan in response to the technical comments we received. We are proposing to extend the stockade fence along the entire frontage of Palmer Avenue. We are proposing to match an eight-foot high stockade fence along the northern property line. Additional landscaping has been added with over 1,000 plants. The lighting plan has been revised to eliminate the pole lights with bollard lights that are 18 inches off the ground.

C.Harris - I think this is a great plan and I want to commend you for your responsiveness.

Neil DePaolo (CEO) - We will use a variety of electric carts to get around the property. The carts charge at night and they have a home in the maintenance shed building. Part of our renovation will make the entire site ADA accessible.

Tyler Hardy - There will be five accessible trailers and two tents.

Lou Stern, 49 Luke Road - The plan is fantastic and we highly support it.

Barbara Fagan, 50 Barnabus Road - I want an eight-foot fence for specific sites.

Bob Johnson - I would suggest Leland cypress.

Jeannette Robinson - This business is a fantastic opportunity to draw people to Falmouth.
Kevin O’Brien - I hope that they will commit to working with the neighbors.

MOTION by R.Leary/P.Dreyer to close the hearing.
Voted 7-0-0

PLANNING BOARD DISCUSSION:
Applicant: Jason Sullivan – Site Plan Review application for an accessory apartment in the basement located at 64 Fresh Pond Road
Jason Sullivan - The house has all new siding and new windows. White cedar siding on the gable end, the front has clapboard. The apartment is under 40 per cent. The Town Planner will draft a positive motion.

Applicant: Woods Hole Partners, LLC – Site Plan Review to construct a forty-three (43) unit residential complex at the property located at 533 Woods Hole Road, to consist of thirty-nine (39) market rate dwelling units in five (5) buildings (three duplex buildings, one twenty (20) unit building, and one thirteen (13) unit building), and four (4) affordable rental units in two duplex buildings.
Letter from the applicant requesting an extension to March 29, 2019.

MOTION by C.Harris/R.Leary to accept the extension.
Voted 6-0-1

Planning Board Appointment to Recodification of the Working Group
T.Bott - We need two people. First meeting is Wednesday March 6th at 5pm.
J.Fox - Pat Kerfoot and Charlotte Harris were nominated and approved.

Committee Reports
Davis Straits Multi-family District

GENERAL CORRESPONDENCE: February 13, 2019 thru February 26, 2019

FUTURE AGENDA ITEMS:
P.Kerfoot - We need a design review protocol.

NEXT MEETING: March 12, 2019

MOTION by R.Leary to adjourn at 9:40

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Sheri Theroux, Recording Secretary
February 20, 2019
119011-1

By Hand Delivery

Mr. Terrence J. Hurrie, Chairman
C/o Noreen Stockman, Zoning Administrator
Town of Falmouth Zoning Board of Appeals
59 Town Hall Square
Falmouth, MA 02540

Mr. Jim Fox, Chairman
C/o Thomas Bott, Town Planner
Town of Falmouth Planning Board
59 Town Hall Square
Falmouth, MA 02540

Re: 836 Palmer Avenue / Updated Landscape Plan Set

Dear Chairman Hurrie and Fox:

On behalf of the Applicant, Blue Flag Development, LLC (“Blue Flag”), enclosed please find copies of an updated Landscape and Lighting Plan Set dated February 14, 2019, prepared by Ahern, LLC for the property at 836 Palmer Avenue, Falmouth, Massachusetts (the “Property”). We have enclosed five full size copies of the Plan Set for distribution to the members of the Falmouth Zoning Board of Appeals in advance of its continued hearing, scheduled for this Thursday, February 21st, and three full size copies of the Plan Set for distribution to the members of the Falmouth Planning Board prior to its continued public hearing, which is scheduled for next Tuesday, February 26th.

As shown in detail on the Plan Set, the proposed landscaping exceeds the requirements set forth in Article XXIV of the Bylaw. Existing vegetation will be preserved to the greatest extent practicable, and significant supplemental planting is proposed from the approved list of buffer species within and around the parking area, along Palmer Avenue, along the northern boundary of the Property, and within the southeastern corner of the Property. In addition, a six foot stockade fence is proposed to match and connect to the existing fencing along Palmer Avenue, and an eight foot fence is proposed to match and connect to the existing fencing along the northern Property boundary.

Moreover, in response to public comment at the initial Planning Board hearing, four parking spaces that were originally located in the northeastern corner of the Property have been relocated, and all pole lighting originally proposed in the parking areas has been replaced with bollard lights, which will provide sufficient illumination for safe ingress and egress, without the need for high poles.
Chairman Hurrie and Fox  
February 20, 2019  
Page 2

We will be prepared to review this plan with each of your boards at the upcoming hearings. Thank you very much for all of your assistance.

Very truly yours,

Eliza Cox

Enclosures
cc: Blue Flag Development, LLC (with enclosures)  
Bracken Engineering, Inc. (with enclosures)
PLANTING SPECIFICATIONS

PLANTING SCHEDULE: natural riparian buffer (Areas 1 - 2), see L.02.1.3

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PLANTING SCHEDULE: wetland area (4), see L.02.4

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PLANTING INSTRUCTIONS

1. Remove all sod and improve subsoil to planting bed.
2. Add adequate organic materials, including compost, to improve subsoil.
3. Incorporate a 4" layer of fine sand or other suitable material to improve drainage.
4. Water plants thoroughly after planting, and establish watering regime to ensure adequate moisture.

PLANTING PLAN

[Diagram of planting plan with specific locations and species indicated]
KEYNOTES:

D.01  ASPHALT DRIVEWAY
D.02  ENTRY KEY PAD
D.03  26' WIDE x 6.5' TALL MOTORIZED ENTRY GATE, STEEL SHEETS OVER WOOD FRAME, DETAIL TO BE PROVIDED
D.04  PAD-MOUNTED CHAIN DRIVE ELECTRICAL MOTOR FOR ENTRY GATE
D.05  IN-GROUND MOUNTED SIGN UP-LIGHTS

SCALE 1/4" = 1' - 0"

ENTRY GATE: EAST ELEVATION
ENTRY GATE: NORTH ELEVATION
ENTRY GATE: PLAN

HERN LLC
AUTOCAMP FALMOUTH
836 PALMER AVENUE
FALMOUTH MA

WORKSHOP / APD
39 West 38th Street, 7th FL, New York, NY 10018
T (212) 273-9712

ARCHITECT
SURVEYOR

L.04

CONSTRUCTION DETAILS

BRACKEN ENGINEERING, INC.
49 HERRING POND ROAD
BUZZARD BAY MA 02532

MINI-PRINTED SHEET 3 OF 3
NOTES:

ELEVATIONS BASED ON ASSUMED DATUM

THE CONTRACTOR SHALL VERIFY THE LOCATION OF THE WATER LINE PRIOR TO THE EXCAVATION OF THE SEPTIC SYSTEM

THE EXISTING PLUMBING SHALL BE CHANGED TO ALLOW THE NEW SEPTIC SYSTEM TO BE GRAVITY FED AS SHOWN

THE CONTRACTOR TO PUMP AND FILL THE EXISTING CESSPOOLS, OR REMOVE THEM AND DISPOSE OF THEM AT A SUITABLE AREA

SITE PLAN

MICHAEL CARUSOTTO
684 FRESH POND ROAD
PARKES, MA

L.E. LANDERS/GAUNT P.E.
P.O. BOX 233
FALMOUTH, MA 02540
(508) 544-9110
(508) 544-2664
64 Fresh Pond Rd.

Amendments:
- Drainage:
  - new exterior drain pipe into basement
  - new drain pipe to drain under apartment entrance
  - new drain pipe to drain under parking area

- Slope:
  - new slope to ensure proper drainage

- Yard:
  - new slope to ensure proper drainage

- Doors:
  - new doors to be both 30" x 6'8", towards right.
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

**Article:** To see if the town will vote to amend the Zoning Bylaw Section(s) 240-23 I(3)(b) and § 240-38 I(3)(b) of the Code of Falmouth – “Accessory Apartments” by deleting ‘7,500 square feet’ and inserting in its place ‘7,000 square feet’. Thereby changing Section 240-23 I.(3)(b) and Section 240-38 I.(3)(b) to read as: b) The lot size shall be no less 7,000 square feet.

The amended language for both sections would be as follows:

Or do or take any other action on this matter. On request of the John Banner.

Falmouth Enterprise
2/8/19
2/15/19
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

**Article:** Shall Town Meeting vote to amend the Accessory Apartment Bylaw by adding in sec. 3 Requirements, B. Lot size shall me no less than 7,500 square feet; add (7,000 square feet minimum in sewer service areas).

Or do or take any other action on this matter. On request of the Marc Finneran.

Falmouth Enterprise
2/8/19
2/15/19
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

**Article:** To see if the town will vote to amend the Zoning Bylaw Article V – Single Residence Districts and Article VIII – Agricultural Districts – and by amending both § 240-23 l(3)J2 and § 240-38 l(3)J2 Accessory Apartments, as amended Article 14 on November 14, 2018, by deleting the term enhanced in both sections:

The amended language for both sections would be as follows:

j)2 – an on-site septic system with nitrogen removal approved by the Board of Health is installed on the property.

Or do or take any other action on this matter. On request of the Gerald Potamis and others.

Falmouth Enterprise
2/8/19
2/15/19
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

**Article:** To see if the town will vote to amend the Code of Falmouth, Chapter 240, Zoning, as follows:
To Article XXIII, Performance Requirements, Section §240-111, Site Design, add:
“1. Improve the collection of solar energy by photovoltaic and/or hot water systems.”

Or do or take any other action on this matter. On request of the Daniel H. Webb.

Falmouth Enterprise
2/8/19
2/15/19
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

Article: To see if the town will vote to amend Chapter 240 – Zoning- of the Code of Falmouth by adding the following:
Article III Definitions
§240-13 Terms defined.
“Substance Abuse Clinic”– A use of land or building on the same lot where people with an alcohol or drug addiction are treated and remain for less than 24 hours.

Article X Business Districts
§240-48 Permitted business and commercial uses.
B. Business or professional offices, bank, medical clinic, computer center, substance abuse clinic (not to be located within 500 feet of the property boundary of a public or private kindergarten, primary or secondary school, a place of worship, a day nursery, nursery school or public park or playground).

§240-54 Permitted business, commercial and industrial uses.
B. Business or professional offices, bank, medical clinic, computer center, substance abuse clinic (not to be located within 500 feet of the property boundary of a public or private kindergarten, primary or secondary school, a place of worship, a day nursery, nursery school or public park or playground).

Or do or take any other action on this matter. On request of the Michael Heylin.

Falmouth Enterprise
2/8/19
2/15/19
In accordance with Section 5, Chapter 40A MGL and Article XXXIII of the Falmouth Zoning Bylaw, the Falmouth Planning Board shall conduct a public hearing on Tuesday, February 26, 2019 at 6:30 pm, in the Town Hall, 59 Town Hall Square, Falmouth, MA 02540, to discuss the following proposed amendment(s) to the Falmouth Zoning Bylaw:

**Article:** To see if the Town will vote to amend the Zoning Bylaw Article XLVII – Marijuana Treatment Centers – by updating Article XLVII Marijuana Treatment Centers so the bylaw will comply with the regulations adopted for such facilities by the Cannabis Control Commission as called for in the Zoning bylaw’s “Purpose” section so that the revised bylaw will read:

240-250 Purpose; definitions; special permit criteria.
A. Purpose. This article defines permitting requirements and standards for medical marijuana treatment centers, also known as "registered marijuana dispensaries," which are consistent with the regulations adopted for such facilities by the Cannabis Control Commission. 935 CMR 501.00 contains additional definitions and regulations relative to the registration, establishment, operations and regulation of such centers/dispensaries, as well as hardship cultivation registration by the Cannabis Control Commission. Nothing in this chapter is intended to regulate or prohibit uses or activities under a hardship cultivation registration.

B. Definitions:
MARIJUANA-INFUSED PRODUCT (MIP)
A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures.

MEDICAL MARIJUANA TREATMENT CENTER/REGISTERED MARIJUANA DISPENSARY
An entity registered under the Cannabis Control Commission 935 CMR 501.000 or its successor legislation (previously under 105 CMR 725.100) that acquires, cultivates, possesses, processes, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, including development of related marijuana-infused product (MIP), related supplies, or educational materials to registered qualifying patients or their registered personal caregivers.

QUALIFYING PATIENT
A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed healthcare provider as having a debilitating medical condition, or a Massachusetts resident younger than 18 years old who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 935 CMR 501.010(J).
C. Permitting. Marijuana treatment center/registered marijuana dispensary shall be a use allowed subject to the issuance of a special permit by the Planning Board, as provided for in this chapter, in Business 2 Zoning Districts only.

D. Special permit criteria - standards. In addition to the requirements for the issuance of a special permit found in § 240-216 of the Zoning Bylaw, any such marijuana treatment center/registered marijuana dispensary shall:

(1) Not be located within 500 feet of a public or private kindergarten, primary or secondary school, a place of worship, a day nursery, nursery school or a public park or playground. No other specific separation requirements will apply.

(2) Be approved for operation, or remain in operation, with a certificate of registration issued by the Cannabis Control Commission or successor agency

(3) Be compliant at all times with the security measures required by 935 CMR 501. A description of such measures, including any updates, shall be provided to the Falmouth Police Department, along with after-hours contact information. Any other provisions of this chapter regarding required landscaping or vegetated buffers notwithstanding, trees, bushes and other foliage located on the site outside of the center/dispensary shall be located (or removed) so they do not allow for a person or persons to conceal themselves from sight within 50 feet of any entrance or of any parking space designated to be utilized by registered qualifying patients, personal caregivers, and dispensary agents of the center/dispensary.

(4) Be in compliance with 935 CMR 501.105 and cultivation, production, preparation, transport or analysis shall be done in a manner to prevent diversion, theft or loss. All phases of the cultivation of marijuana shall take place in designated, locked, limited access areas that are monitored by a surveillance camera system in accordance with 501.110(4)(a)(4) through (9).

(5) Adopt emergency procedures, including a plan with procedures to be followed in case of fire or other emergencies, copies of which shall be filed with the Police and Fire Departments.

(6) Provide parking applicable to retail establishments for that portion of the floor area designated for sales, and to manufacturing or other industrial buildings for floor area designated for storage or for cultivation of marijuana or preparation of MIPs.

(7) Be in compliance with 935 CMR 501.105(12) regarding marketing, advertising and signs.

Or do or take any other action on this matter. On behalf of the Planning Board

Falmouth Enterprise
2/8/19
2/15/19