Falmouth Planning Board
Selectmen’s Meeting Room – March 12, 2019
Regular Meeting - 6:30 pm
MINUTES

Present: Jim Fox, Chairman, Pat Kerfoot, Vice Chairman, Paul Dreyer, Clerk/Secretary, Robert Leary, Pamela Harting-Barrat, Charlotte Harris
Also Present: Tom Bott, Town Planner, Corey Pacheco, Assistant Town Planner
Absent: John Druley
Chairman Jim Fox called the meeting to order at 6:31 PM.

MINUTES: February 26, 2019
MOTION by P.Dreyer/P.Harting-Barrat to approve the minutes of February 26, 2019.
Voted 6-0-0

PUBLIC COMMENT
None

Applicant: William Rogers – Site Plan Review application for an accessory apartment located at 406 Woods Hole Road
William Rogers - It is shingle, west elevation faces the road. The calculations are on the site plan. The existing is 13.7 per cent and the proposed is 14.8 per cent.
J.Fox - You need to have a meeting with staff. The apartment can only be 40 per cent of the house area.

MOTION by P.Kerfoot/R.Leary to continue this hearing to April 26th.
Voted 6-0-0

MOTION by P.Kerfoot/P.Leary to take William Rogers and Blue Flag Development LLC out of order.
Voted 6-0-0

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.

MOTION by R.Leary/P.Kerfoot that the Planning Board vote to approve the application of Blue Flag Development, LLC under Article XXXIX (39) – Site Plan Review – of the Zoning Bylaw for the addition of 1,000 square feet or more of structure and the addition of 5 or more parking spaces located at 836 Palmer Avenue, also shown on Assessor’s Map 35 Section 02, Parcel 007, Lot 000; and as depicted on plans entitled:
a) “Proposed Campground Improvements at 836 Palmer Avenue” prepared by Bracken Engineering, Inc., dated December 20, 2018, revised February 21, 2019, scale 1” = 1,000’ (Sheets 1-16);

b) “Planting Plan”, prepared by Ahern, LLC, dated February 14, 2019, scale 1” = 40’ (8 sheets);

c) “ATC Clubhouse Floor Plans” prepared by Workshop/APD Architecture, DPC, dated December 19, 2018, scale 1/4” = 1’; with the following findings and condition.

**FINDINGS:**

The applicant proposes to redevelop the existing campground which has been operating commercially, as said use, dating back to the 1920s. The property is located at 836 Palmer Avenue, is situated on a 12.72 acres parcel and zoned Public Use (PU). A front yard parking field is proposed in order to keep the site and setting free of automobiles. The applicant has applied to the Planning Board under Article XXII (22), Chapter 240-109 E, for a special permit for the addition of front yard parking as defined in Article III, Definitions. The Board will decide each application accordingly.

As proposed, there will be a reduction in the number of total campsites from 122 to 108 (98 new airstream rental trailers, and 10 canvas tents on raised platforms); the proposal will upgrade utilities including septic and water service; improve site drainage; improve ADA compliant access throughout the site along with 5 ADA accessible trailers and two ADA accessible tent sites; preserve the site’s existing natural landscape and topography, including the planting of approximately 1,100 new landscape features; the addition of 8-foot fencing along the northern lot line to provide privacy for abutters and 6-foot fencing along Palmer Avenue to screen front yard parking; and raze most existing structures on site and replace with a central clubhouse.

Under Site Plan Review the Board finds the plans conform to the dimensional requirements of the zoning bylaw concerning building setbacks and height.

The Board finds the application satisfies Article XXII – Parking Requirements – of the zoning bylaw including the number and location of off-street parking and loading spaces, and aisle widths; Article XXIII – Performance Requirements – of the Zoning Bylaw, including nuisances, site design and storm water management; and Article XXIV – Landscape Requirements.

The Falmouth Fire Rescue Department has reviewed the revised plans referenced above and is satisfied with emergency access and circulation around the site, as well as the placement of fire hydrants.

The applicant has responded to the Falmouth Engineering Division’s referrals dated January 17, 2019 with revised cover letter and plans dated February 21. Falmouth Engineering Division’s provided a revised referral dated February 25, 2019. The applicant has not addressed any outstanding issues stated within this referral.

The Falmouth Water Department referral dated January 18, 2019 provided review and comment of the proposed water utilities; the applicant has responded in a letter dated February 21, 2019 with changes included but not limited to the inclusion of an 8-inch ductile iron main with 2-inch service branches. The project has received preliminary plan approval from the Water Department and will require further review.

The Board of Health at their meeting of February 25, 2019 approved the Innovative/Alternative septic system proposed by the applicant.

The Planning Board finds that the site plan, architectural elevations and landscaping plan for the proposed commercial campground appropriate. The Planning Board thanks the applicant and development team for revising the above referenced plans per the Planning Board’s comment, as well as meeting directly with abutters and community members to address their concerns. The Planning Board strongly encourages the applicant to continue working closely with abutters and the community as the project develops.
CONDITIONS

The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the Zoning Bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval have been met.

Voted 5-1-0

MOTION by R.Leary/P.Kerfoot that the Planning Board vote to approve the application of Blue Flag Development, LLC and Grant a special permit pursuant to section 240-109 (E) to construct parking areas within the front yard located at 836 Palmer Avenue, also shown on Assessor’s Map 35 Section 02, Parcel 007, Lot 000 as depicted on plans entitled:

a. “Proposed Campground Improvements at 836 Palmer Avenue” prepared by Bracken Engineering, Inc., dated December 20, 2018, revised February 21, 2019, scale 1” = 1,000’ (Sheets 1-16);
b. “Planting Plan”, prepared by Ahern, LLC, dated February 14, 2019, scale 1” = 40’ (8 sheets);
c. “ATC Clubhouse Floor Plans” prepared by Workshop/APD Architecture, DPC, dated December 19, 2018, scale 1/4” = 1’; with the following findings and conditions.

FINDINGS:

The applicant, Blue Flag Development LLC, is applying to the Planning Board for a special permit under Section 240-109(E) for parking located within the front yard as defined in Article III, Definitions. The applicant is proposing a new parking field within the front yard of the property in order to keep the site and setting free of automobiles. A special permit granting authority shall grant a special permit only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. Pursuant to Section 216 of the Zoning Bylaw, the determination shall indicate and shall include consideration of each of the following:

A. Adequacy of the site in terms of size for the proposed use;

The Planning Board finds the size of the site adequate. The minimum lot size in a Public Use zoning district is 45,000 square feet. There is no proposed subdivision so the parcel will retain its 554,140 square feet of lot size. Lot Coverage by structure is allowed up to forty (40) percent of the lot. The proposed new structures is at 3.7 percent lot coverage. Total lot coverage is allowed up to seventy (70) percent. Proposed structure paving and parking is at 9 percent total lot coverage. Required lot width is 150 feet, the parcel has a lot width of 570 feet. Minimum frontage required is 100 feet, the parcel contains approximately 835 feet of frontage on Palmer Avenue. The proposed project comply with these requirements.

B. Suitability of the site for the proposed use;

The Planning Board finds the site suitable for the proposed use. The zoning is Public Use, which allows campgrounds by special permit. The property is currently used as a seasonal campground and has been in use as such by the same family since 1961 and is well-known to have been used as a campground as far back as the 1920s. The surrounding land uses are primarily residential and agricultural. The ways serving the site are part of the principal roadways of the town and the state highway system.

C. Impact on traffic flow and safety;

The Board finds the impact on traffic flow and safety to be acceptable. Currently there is one curb cut. MDM transportation consultants estimated in their study of the site that approximately 23 vehicle trips during the weekday morning peak hours, 30 vehicle trips during the weekday evening peak hours, and 31 vehicle trips during the Saturday midday peak hour. Compared to existing campground conditions...
122 sites the proposed conditions are estimated to generate three fewer vehicle trips during weekday evening peak and 4 fewer during Saturday midday period. The proposed camp will generate 30 to 50 fewer vehicle trips and change from camper trailer sites to rental camper trailers in place will result in a reduction in the vehicle type by reducing the number and type of towed vehicles. The site abuts and has open access to the Shining Sea Bikeway. The Board finds no net increase in traffic related impacts over existing conditions.

D. Impact on neighborhood visual character, including views and vistas;

The Planning Board finds no impact on neighborhood visual character, including views and vistas. The buildings and landscaping proposed by the applicant will be an improvement over what currently exists today on the site. The installation of buffer fencing and landscaping will increase privacy with abutters and screen the front yard parking field from the public view shed on Palmer Avenue. There are no significant views or vistas being affected by the height or location of the proposed buildings. The Board finds the project will preserve and enhance the existing natural features of the site.

E. Adequacy of method of sewage disposal, source of water and drainage;

The Board finds the method of sewage disposal, source of water, both potable and for fire suppression, and the drainage (storm water management) for the project to be adequate. The redevelopment of the site will reduce impervious areas and upgrade existing drainage and contain all storm water on site. The applicant has received Board of Health approval for the proposed on site Innovative/Alternative wastewater treatment system. The proposed water system has been revised based on Water Department comments and has received preliminary approval and is subject to final approval – Department of Public works maintains town water in the area.

F. Adequacy of utilities and other public services;

The Board finds these to be adequate. The site is served by power and telephone utilities and is adjacent to other public services including cable and internet connections.

G. The effect of the proposed project on the adequacy of the supply of affordable housing in the Town;

The Planning Board finds no effect on the supply of affordable housing in the town.

H. The decision of the Planning Board under Article XXXIX –Site Plan Review

The decision of the Planning Board under Article XXXIX (39) Site Plan Review dated March 12, 2019 will be incorporated and made part of this decision in its entirety, including but not limited to the plans cited and conditions imposed.

I. Compliance with all applicable sections of the zoning bylaws including, but not limited to, all performance requirements under Articles XXII (22) to XXIV (24).

The Planning Board finds compliance with the applicable sections 240-109 (E) of the zoning bylaw and with the incorporation of the Planning Board’s decision under Article XXXIX (39) Site Plan Review all performance requirements under Articles XXII to XXIV.

THEREFORE, given the above and the conditions to be imposed below, the Planning Board finds the proposed use will be in harmony with the general purpose and intent of this chapter and that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town.

CONDITIONS

1. The decision of the Planning Board under Article XXXIX (39) Site Plan Review dated March 12, 2019 for Blue Flag Development LLC, as a letter to Building Commissioner and attached hereto, is hereby adopted
and made part of this decision in its entirety, including but not limited to plans cited for approval and conditions 1 imposed therein.

2. Pursuant to section 240-221 of the zoning bylaw, this special permit shall lapse three years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause.

3. Install bike rack as shown on site plan.

**Voted 6-0-0**

**Applicant: Nature’s Remedy – Special Permit application for a medical marijuana dispensary at 31 Teaticket Highway**

Justin Lundberg - we were granted a host community agreement by the Town of Falmouth back in November 2018. Our cultivation site is in Lakeville. We will be growing all of our own product at that facility to be sold at retail locations.

Tom Bunker - The location is near the corner of Route 28 and Teaticket Highway and Jones Road. The property is just to the north of Cape Cod Bank & Trust. The use type is retail office with 15 parking spaces.

J.Lundberg - We are just talking medical here. Based upon 35,000 active users a month and 100 dispensaries open, you are talking 350 people will generally go to a dispensary. Nine visits an hour; average time in dispensary is ten minutes.

C.Harris - How often does a person with a prescription tend to show up?

J.Lundberg - I believe they can get a 60 day prescription, it is sporadic traffic.

C.Harris - What are the hours that you’ll be open?

J.Lundberg - The Board can decide the hours. Typically 10am to 7pm.

R.Leary - Will you be selling paraphernalia there as well?

Ben Handler - What will be found in the dispensary is a first-time user’s guide. Whether it be a simple rolling paper, a simple pipe, there won't be a full-scale paraphernalia shop within just to be able to provide the basics and education.

R.Leary - It will just be marijuana leaves and extracts?

B.Handler - Yes.

J.Lundberg - This is a challenging site because a lot of the condo owners aren't there. The buildings and the whole back area is a mess right now. This has to work for everybody. I will get you pictures of the dispensary we are building in Millbury. There is no loading dock, deliveries are through the front.

J.Fox - I think you should give us a landscape plan so that we can see what it’s going to be.

Patrick Brady representing the condominium trust - Condominium rules do supersede and can be more restrictive than the Town. A unit owner owns their unit. Siding and parking are controlled by the association. There is an easement on record for a prior bank for the drive through. The master deed has an architectural integrity clause.

J.Fox - It sounds like they have a lot of work to do with you. We have to wait until you figure out the outside. You guys should solve that first. We would like to see a landscaping plan and what the outside of the building will look like.

T.Bott read letter of opposition from Admiralty Inn.

Continued to April 23rd.
MOTION by P.Kerfoot/R.Leary to return to the regular agenda.
Voted 6-0-0

PUBLIC HEARINGS:

Petitioner Articles for Spring 2019 Town Meeting (240-23 and 240-38 Accessory Apartments)
1. Article 21 - Delete “Enhanced” from on-site septic system with nitrogen removal
   J.Fox - Do you have anything new?
   Gerald Potamis - I did seek advice from the Town Moderator about changing the wording and he said yes. I met with the Board of Health discussing their view of eliminating the word enhanced. They agreed an onsite system removes a percent of nitrogen. They agreed that this language may be clearer. We have no definition of enhanced.
   Virginia Valieila - I am totally opposed to this. The clear intent is to remove the nitrogen removal intent. I recommend indefinite postponement.
   MOTION by P.Kerfoot/P.Harting-Barrat to indefinitely postpone this Article.
   Voted 6-0-0

2. Article 22 - Minimum Lot Size 7,000 square foot
   T.Bott - Mr. Banner has asked for a continuance but we will be printing the booklet. Originally, his proposal was reduce the lot size to 7,000 square feet in all areas. His amended bylaw would be for 7,500 square feet except when both the principle dwelling and accessory apartment are connected to the municipal sewer system. The lot size should be no less than 7,000 square feet.
   P.Dreyer - I would be in favor of reducing the lot size. The Board fought hard not to put the cap on the square footage.
   R.Leary - I always felt that the constraints would be self-eliminating.
   MOTION by P.Kerfoot/P.Harting-Barrat to indefinitely postpone the article.
   Voted 5-1-0

3. Article 23 - Minimum Lot Size 7,000 sf in sewer service area
   MOTION by C.Harris/P.Harting-Barrat to indefinitely postpone the Article.
   Voted 5-1-0

PUBLIC DISCUSSIONS:

Petitioners Articles for Spring 2019 Town Meeting (Article 25 - 240-111 Site Design – Solar orientation)
   MOTION by P.Kerfoot/R.Leary to approve.
   Voted 6-0-0

PLANNING BOARD DECISIONS

Applicant: Jason Sullivan – Site Plan Review application for an accessory apartment in the basement located at 64 Fresh Pond Road
MOTION by R. Leary/P. Kerfoot that the Planning Board vote to approve the application of Jason Sullivan, under Article XXXIX (39) Site Plan Review of the zoning bylaw for a plan entitled: “Site Plan Prepared for Michael Carotento of #54 Fresh Pond Road” prepared by JE Landers-Cauley, P.E., dated May 15, 2017, scale 1” = 30’ (1 sheet), along with floor plans drawn by Jason Sullivan Construction (two sheets) and landscape and drainage drawings (by hand, two sheets) prepared by applicant, with the following findings and condition:

FINDINGS:

The applicant is seeking to construct an accessory apartment within the basement of a primary single-family residence with associated drainage, landscaping, and parking. The subject parcel is located in an Agricultural A (AGA A) zoning district located at 64 Fresh Pond Road, Map# 29 02 020 000. The lot size is 43,513 square feet; the residence contains three bedrooms and the applicant is proposing to add a 4th bedroom. The parcel is located in a MEP-Waquoit Bay Coastal Pond district but does not exceed the one bedroom per 10,000 square feet of lot area that would require onsite septic with enhanced nitrogen removal. The proposed apartment will be 468 square feet (18 x 26). The primary residence square footage is 1,196 square feet, according to drawings provided; the first floor living space is 1,196 square feet (46 x 26) resulting in a 39 per cent relation to principle structure floor area ratio.

The Planning Board’s review does not include Building Code review and the Board defers to the Building Commissioner as to issues related to Building Code. The Planning Board would like to thank the applicant for revising plans and elevations based upon Board review and comment.

Findings pursuant to section 240-23.I of the zoning bylaw
a) Only one accessory apartment shall be allowed per lot and the above referenced application and plans comply with this requirement.
b) Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. The Board will condition its decision accordingly.
c) Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time. The Board will condition its decision accordingly.
d) The accessory apartment shall have no more than two bedrooms and a maximum of 800 square feet of floor area, or 40 per cent of the floor area of the principal dwelling, whichever is less. The above referenced plans comply with this requirement.
e) The total number of bedrooms on the lot shall not exceed four when the lot contains less than 20,000 square feet. The lot contains 43,500 square feet of upland, therefore, this requirement is non-applicable.
f) Whether allowed as a matter of right or by special permit, accessory apartments located on lots subject to the provisions of the Water Resource Protection or Coastal Pond Overlay Districts the total number of bedrooms shall not exceed one per 10,000 square feet of lot area, unless both the principal dwelling and accessory apartment are connected to the municipal sewer system or to an on-site septic system with enhanced nitrogen removal approved by the Board of Health. The property is located in the MEP-Waquoit Bay Coastal Pond Overlay District but meets the 4 bedroom 40,000 square foot lot requirement. The applicant will need a larger septic system than the three-bedroom system they currently have if the accessory apartment becomes the 4th bedroom. The applicant could keep the current system if one of the bedrooms in the primary residence is eliminated thus keeping the net flow neutral.
g) Design standards. Accessory apartments, whether a part of new construction, reconstruction, alteration or change to a single family residence or accessory structure (attached) thereto, shall maintain the following standards:

(a) The architectural effect, as the result of the accessory apartment being constructed within the principal dwelling, shall be that of a single family residence compatible with the surrounding neighborhood. The Board finds the proposed accessory apartment meets the applicable design standards for a single family residence.

(b) Parking for the accessory apartment shall be provided in a manner that is compatible with the surrounding neighborhood. The proposed parking is sufficient for the site and is compatible with the surrounding neighborhood.

CONDITIONS:

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the zoning bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval and predecessor approvals have been met.

2. Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. An affidavit shall be submitted annually to the building commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment has been owner-occupied for a period of seven months and not otherwise rented as set forth above.

3. Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six (6) months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time.

Voted 6-0-0

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 swelling units in five (5) buildings (three duplex buildings, on twenty (20) unit building, and one thirteen (13) unit building), and four (4) affordable rental units in two duplex buildings.

J.Fox recused himself.

T.Bott - We did have a meeting with the engineering staff and Woods Hole Partners to work on the outstanding issues and many are in the midst of being resolved. We received an opinion from both Town Counsel and another from the Building Commissioner that do not agree. There is no exemption for a 2 ½ story in BRD. The BRD has its own set of requirements in Section 242H. The Building Commissioner doesn’t seem to think that there is a limitation on two and a half stories and Town Counsel does. This will have to be resolved.

Attorney Kevin Klauer - The width of the driveway entrance is 20 feet. The concern is you don’t want the Dome traffic driving through the rest of the residential site. The integration with the Hui property is a long term hope. We did submit revised designs for the affordable units. We are in compliance with the covenant restrictions.

C.Harris - I think this project is a terrific improvement for that area and we should vote on this project.
MOTION by C.Harris/R.Leary to approve.

P.Kerfoot - We absolutely can’t vote it tonight as issues remain unresolved. I think we should ask for an extension.

K.Klauer - The accidents in that area have been centered around Church Street. Continued to the 26th.

PLANNING BOARD DISCUSSION:

Committee Reports

P.Dreyer - The Water Quality management Committee had an interesting presentation from Chris Neil and another from Maureen Thomas on the experimental wastewater treatment options.

C.Harris - The Route 28 Advisory Committee has gotten tremendous support from the DPW and Sheriff Cummings.

P.Harting-Barrat - The Affordable Housing Committee is planning a large roundtable with the other communities.

GENERAL CORRESPONDENCE: February 27, 2019 thru March 12, 2019

FUTURE AGENDA ITEMS:

P.Dreyer - We need to think about a brief presentation from the Planning Board during the committee report section at Town Meeting.

NEXT MEETING: March 26, 2019

MOTION by R.Leary to adjourn.

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Sheri Theroux, Recording Secretary
MOTION: That the Planning Board vote to approve the application of Blue Flag Development, LLC under Article XXXIX (39) – Site Plan Review – of the Zoning Bylaw for the addition of 1,000 square feet or more of structure and the addition of 5 or more parking spaces located at 836 Palmer Avenue, also shown on Assessor’s Map 35 Section 02, Parcel 007, Lot 000; and as depicted on plans entitled:

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FINDINGS:

The applicant proposes to redevelop the existing campground which has been operating commercially, as said use, dating back to the 1920s. The property is located at 836 Palmer Avenue, is situated on a 12.72 acres parcel and zoned Public Use (PU).

A front yard parking field is proposed in order to keep the site and setting free of automobiles. The applicant has applied to the Planning Board under Article XXII (22), Chapter 240-109 E, for a special permit for the addition of front yard parking as defined in Article III, Definitions. The Board will decide each application accordingly.

As proposed, there will be a reduction in the number of total campsites from 122 to 108 (98 new airstream rental trailers, and 10 canvas tents on raised platforms); the proposal will upgrade utilities including septic and water service; improve site drainage; improve ADA compliant access throughout the site along with 5 ADA accessible trailers and 2 ADA accessible tent sites; preserve the site’s existing natural landscape and topography, including the planting of approximately 1,100 new landscape features; the addition of 8 foot fencing along the northern lot line to provide privacy for abutters and 6 foot fencing along Palmer Avenue to screen front yard parking; and raze most existing structures on site and replace with a central clubhouse.

Under Site Plan Review the Board finds the plans conform to the dimensional requirements of the zoning bylaw concerning building setbacks and height.

The Board finds the application satisfies Article XXII – Parking Requirements – of the zoning bylaw including the number and location of off-street parking and loading spaces, and aisle widths; Article XXIII – Performance Requirements – of the Zoning Bylaw, including nuisances, site design and storm water management; and Article XXIV – Landscape Requirements.

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The Board of Health at their meeting of February 25, 2019 approved the Innovative/Alternative septic system proposed by the applicant.

The Planning Board finds that the site plan, architectural elevations and landscaping plan for the proposed commercial campground appropriate. The Planning Board thanks the applicant and development team for revising the above referenced plans per the Planning Board’s comment, as well as meeting directly with abutters and community members to address their concerns. The Planning Board strongly encourages the applicant to continue working closely with abutters and the community as the project develops.

**CONDITIONS**

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the Zoning Bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval have been met.
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A special permit granting authority shall grant a special permit only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. Pursuant to Section 216 of the Zoning Bylaw, the determination shall indicate and shall include consideration of each of the following:

A. Adequacy of the site in terms of size for the proposed use;

The Planning Board finds the size of the site adequate. The minimum lot size in a Public Use zoning district is 45,000 square feet. There is no proposed subdivision so the parcel will retain its 554,140 square feet of lot size. Lot Coverage by structure is allowed up to forty (40) percent of the lot. The proposed new structures is at 3.7 percent lot coverage. Total lot coverage is allowed up to seventy (70) percent. Proposed structure paving and parking is at 9 percent total lot coverage. Required lot width is 150 feet, the parcel has a lot width of 570 feet. Minimum frontage required is 100 feet, the parcel contains approximately 835 feet of frontage on Palmer Avenue. The proposed project comply with these requirements.

B. Suitability of the site for the proposed use;

The Planning Board finds the site suitable for the proposed use. The zoning is Public Use, which allows campgrounds by special permit. The property is currently used as a seasonal campground and has been in use as such by the same family since 1961 – it is well known to have been used as a campground as far back as the 1920s. The surrounding land uses are primarily residential and agricultural. The ways serving the site are part of the principal roadways of the town and the state highway system.
C. Impact on traffic flow and safety;

The Board finds the impact on traffic flow and safety to be acceptable. Currently there is one curb cut. MDM transportation consultants estimated in their study of the site that approximately 23 vehicle trips during the weekday morning peak hours, 30 vehicle trips during the weekday evening peak hours, and 31 vehicle trips during the Saturday midday peak hour. Compared to existing campground conditions with 122 sites the proposed conditions are estimated to generate 3 fewer vehicle trips during weekday evening peak and 4 fewer during Saturday midday period. The proposed camp will generate 30 to 50 fewer vehicle trips and change from camper trailer sites to rental camper trailers in place will result in a reduction in the vehicle type by reducing the number and type of towed vehicles. The site abuts and has open access to the Shining Sea Bikeway. The Board finds no net increase in traffic related impacts over existing conditions.

D. Impact on neighborhood visual character, including views and vistas;

The Planning Board finds no impact on neighborhood visual character, including views and vistas. The buildings and landscaping proposed by the applicant will be an improvement over what currently exists today on the site. The installation of buffer fencing and landscaping will increase privacy with abutters and screen the front yard parking field from the public view shed on Palmer Avenue. There are no significant views or vistas being affected by the height or location of the proposed buildings. The Board finds the project will preserve and enhance the existing natural features of the site.

E. Adequacy of method of sewage disposal, source of water and drainage;

The Board finds the method of sewage disposal, source of water, both potable and for fire suppression, and the drainage (storm water management) for the project to be adequate. The redevelopment of the site will reduce impervious areas and upgrade existing drainage and contain all storm water on site. The applicant has received Board of Health approval for the proposed on site Innovative/Alternative wastewater treatment system. The proposed water system has been revised based on Water Department comments and has received preliminary approval and is subject to final approval – Department of Public works maintains town water in the area.

F. Adequacy of utilities and other public services;

The Board finds these to be adequate. The site is served by power and telephone utilities and is adjacent to other public services including cable and internet connections.

G. The effect of the proposed project on the adequacy of the supply of affordable housing in the Town;

The Planning Board finds no effect on the supply of affordable housing in the town.
H. The decision of the Planning Board under Article XXXIX – Site Plan Review

The decision of the Planning Board under Article XXXIX (39) Site Plan Review dated March 12, 2019 will be incorporated and made part of this decision in its entirety, including but not limited to the plans cited and conditions imposed.

1. Compliance with all applicable sections of the zoning bylaws including, but not limited to, all performance requirements under Articles XXII (22) to XXIV (24).

The Planning Board finds compliance with the applicable sections 240-109 (E) of the zoning bylaw and with the incorporation of the Planning Board’s decision under Article XXXIX (39) Site Plan Review all performance requirements under Articles XXII to XXIV.

THEREFORE, given the above and the conditions to be imposed below, the Planning Board finds the proposed use will be in harmony with the general purpose and intent of this chapter and that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town.

CONDITIONS

1. The decision of the Planning Board under Article XXXIX (39) Site Plan Review dated March 12, 2019 for Blue Flag Development LLC, as a letter to Building Commissioner and attached hereto, is hereby adopted and made part of this decision in its entirety, including but not limited to plans cited for approval and conditions 1 imposed therein.

2. Pursuant to section 240-221 of the zoning bylaw, this special permit shall lapse three years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause.

3. Install bike rack as shown on site plan.

Vote of the Board:

Mr. Druley: Mrs. Kerfoot:
Mrs. Harting Barat: Mr. Dreyer:
Mr. Leary: Ms. Harris:
Mr. Fox:

NOTE: Any appeal from this decision of the Planning Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (GL) as amended, and must be filed within twenty (20) days after the date of filing of this decision with the Town Clerk.
DRAFT: March 5, 2019

MOTION: That the Planning Board vote to approve the application of Jason Sullivan, under Article XXXIX (39) Site Plan Review of the zoning bylaw for a plan entitled: “Site Plan Prepared for Michael Carotento of #54 Fresh Pond Road” prepared by JE Landers-Cauley, P.E., dated May 15, 2017, scale 1” = 30’ (1 sheet), along with floor plans drawn by Jason Sullivan Construction (2 sheets) and landscape and drainage drawings (by hand, 2 sheets) prepared by applicant, with the following findings and condition:

FINDINGS:

The applicant is seeking to construct an accessory apartment within the basement of a primary single family residence with associated drainage, landscaping, and parking. The subject parcel is located in an Agricultural A (AGA A) zoning district located at 64 Fresh Pond Road, Map# 29 02 020 000. The lot size is 43,513 sf; the residence contains 3 bedrooms – the applicant is proposing to add a 4th bedroom. The parcel is located in a MEP-Waquoit Bay Coastal Pond district but does not exceed the 1 bedroom per 10,000 sf of lot area that would require onsite septic with enhanced nitrogen removal. The proposed apartment will be 468 square feet (18 x 26). The primary residence square footage is 1,196, according to drawings provided – first floor living space is 1,196 square feet (46 x 26) resulting in a 39% relation to principle structure floor area ratio.

The Planning Board’s review does not include Building Code review and the Board defers to the Building Commissioner as to issues related to Building Code. The Planning Board would like to thank the applicant for revising plans and elevations based upon Board review and comment.

Findings pursuant to section 240-23.1 of the zoning bylaw

a) Only one accessory apartment shall be allowed per lot and the above referenced application and plans comply with this requirement.

b) Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. The Board will condition its decision accordingly.

c) Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time. The Board will condition its decision accordingly.

d) The accessory apartment shall have no more than two bedrooms and a maximum of 800 square feet of floor area, or 40% of the floor area of the principal dwelling, whichever is less. The above referenced plans comply with this requirement.
e) The total number of bedrooms on the lot shall not exceed four when the lot contains less than 20,000 square feet. The lot contains 43,500 square feet of upland, therefore, this requirement is non-applicable.

f) Whether allowed as a matter of right or by special permit, accessory apartments located on lots subject to the provisions of the Water Resource Protection or Coastal Pond Overlay Districts the total number of bedrooms shall not exceed one per 10,000 square feet of lot area, unless both the principal dwelling and accessory apartment are connected to the municipal sewer system or to an on-site septic system with enhanced nitrogen removal approved by the Board of Health. The property is located in the MEP-Waquoit Bay Coastal Pond Overlay District but meets the 4 bedroom 40,000 square foot lot requirement. The applicant will need a larger septic system than the 3 bedroom system they currently have if the accessory apartment becomes the 4th bedroom. The applicant could keep the current system if one of the bedrooms in the primary residence is eliminated thus keeping the net flow neutral.

g) (4) Design standards. Accessory apartments, whether a part of new construction, reconstruction, alteration or change to a single family residence or accessory structure (attached) thereto, shall maintain the following standards:

(a) The architectural effect, as the result of the accessory apartment being constructed within the principal dwelling, shall be that of a single family residence compatible with the surrounding neighborhood. The Board finds the proposed accessory apartment meets the applicable design standards for a single family residence.

(b) Parking for the accessory apartment shall be provided in a manner that is compatible with the surrounding neighborhood. The proposed parking is sufficient for the site and is compatible with the surrounding neighborhood.

CONDITIONS:

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the zoning bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval and predecessor approvals have been met.

2. Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. An affidavit shall be submitted annually to the building commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment has been owner-occupied for a period of seven months and not otherwise rented as set forth above.
3. Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six (6) months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time.
STAFF REPORT

Special Permit: Section 240-250 Marijuana Treatment Centers

31 Teaticket Highway
Map# 39 15 022 000B

Applicant:
Nature’s Remedy, Inc.

Owner:
Tataket Square Condo Owners

Applicant’s Agent:
BSS Design, Thomas J. Bunker, PLS

Decision Deadline: 90 Days from hearing date

Special Permit: 90 days from March 12, 2019

Decision Deadline Date: June, 10, 2019

Overview
The applicant is applying to the Planning Board for a special permit under Section 240-250 Marijuana Treatment Center. The Planning Board will also be reviewing the project under special permit criteria Section 240-216. The Board of Selectman voted 5 -0 on November 19, 2018 to provide a letter of support for the application. BOS and Nature’s Remedy have executed a Host Community Agreement.

Existing Conditions
The applicant is proposing to establish a dispensary in vacant office space with an existing strip mall plaza located on Route 28 – 31 Teaticket Highway across from the Stop and Shop plaza just east of the Jones Road Worcester Court intersection. There is currently one occupied unit where a hair salon and yoga studio currently operate.
### Business 2 Dimensional Requirements: Existing, Proposed and Required

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### Proposed Conditions, Demolition and Site Preparation

Nature’s Remedy is proposing to outfit existing commercial space to establish a medical marijuana dispensary store front.

The site improvements will include providing ADA compliant access to the building; building a landing at rear exit door; removing tall grasses and maintain shrubs below 2.5 feet; remove vines, shrubs and dead trees from property; remove any potential obstructions; remove brush and maintain area between pavement and top of slope free of vegetation other than grasses located at rear of lot behind the parking area. Maintain shrubs along the building below the 3 foot mark. The applicant will be restriping parking spaces at rear parking field. See engineer’s comments.

### Parking and Loading

In accordance with Section 240-108, table of Minimum Requirements the project has been designed for 15 parking spaces calculated at 1 per 200 square feet of retail and 1 per 250 square feet for office. Total number of spaces at retail 7.85 and for office 6.69 = 15 marked spaces total.

The entire lot appears to have 64 parking spaces of which 3 accessible spaces are required and 3 are provided. With 3 spaces provided, 1 van accessible space is required, and 1 is provided.

### Engineering Comments

- The proposed parking modifications are only striping, however the drive aisle between the new Van Accessible space would be 21’ wide and not 24’ as required by §240-108.1.A. We defer to the Planning Board if modifications are required to widen the aisle.
- The drive aisle southwest of the space numbered 15 would be 22’ and not 24’ as required by §240-108.1.A. The spaces could be shifted to the northeast to provide the required aisle width. We defer to the Planning Board if modifications are required to widen the aisle.
- Will there be an off-street loading area as required by §240-108.1.C? What kind of vehicles will be used for deliveries? We defer to the Planning Board if a loading area is required.
- The breakdown of space is not clear from the “Parking Calculations” table and the three floor areas indicated on the plans, however, assuming the numbers represent the proposed modifications, 14.5 spaces are required and 15 are provided.
- The entire parking lot will appear to have 64 parking spaces total, of which 3 accessible spaces would be required and 3 are provided. With 3 accessible spaces provided, 1 van accessible space is required, and 1 is provided.
Circulation

The Fire Department had no comment on emergency access and circulation to, and around, the site. See Engineering’s comments above.

Traffic Generation

Study not provided by applicant.

Landsaping

Landscape plan was not provided by applicant. See Special Permit criteria 240-250 -- 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.

Water and Wastewater

Sewer Department: 31 Teaticket Highway is in the Little Pond Sewer Service area. This building is connected to the municipal sewer system. Nature’s Way is proposing to occupy approximately 3,200 sq ft of the existing building for retail and office use. Based on title 5 flow numbers for this square footage of retail and office use, the total peak gallons per day of water use is estimated to be less than 240 gallons per day. The part of the building in which Nature’s Way is proposed has recently been unoccupied but was previously in use as office space. The proposed use for Nature’s Way will not increase wastewater flow from the space beyond that which was previously permitted for the space under Title 5.

Because the proposed use will not increase Title 5 wastewater flow from the space, a variance under the Town’s Flow Neutral Bylaw is not required for this redevelopment.

Board of Health Administrator: Any project on Town sewer that is increasing wastewater flow above 10% of the current use must follow the Flow Neutral Bylaw process. Applicant would need review by Amy Lowell and apply to BOS for tie in approval.

Town Water Department: Already water service and meter provided at this location. No comment or impact.

Storm water

This project only involves interior modifications to an existing building and restriping of an existing parking lot. No drainage calculations were provided. The proposed work does not change any drainage patterns on the site, and includes a negligible increase of 80 square feet of impervious, so we see no reason for the Applicant to submit drainage calculations.

Signage

No signage detail provided. Regulated by State Code which prohibits characteristics or names referencing cannabis or depictions of cannabis or associated paraphernalia. Windows must be covered and no merchandise may be visible from the exterior. Regulated under Massachusetts 935 CMR 501.00

Lighting and Security

Regulated under Massachusetts 935 CMR 501.00 governs security operations. Fulltime security officer present on site with CCTV camera and security procedures. No exterior lighting proposed.

Review Comments

As required under the zoning bylaw, the application was distributed to the Tax Collector Board of Health, Inspectional Services, Engineering, Water, DPW, Conservation Commission and Fire. Comments are distributed throughout staff report as needed.
Economic Sustainability
Policy #3: Falmouth shall promote educational partnerships to invest in a strong future labor force and to remain open to new ideas.

Planning Board Criteria for Special Permit Chapter 240-250. Marijuana Treatment Centers
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 Massachusetts Department of Public Health.

3. Be compliant at all times with the security measures required by 105 CMR 725.000. 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 105 CMR 725.105(D) 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 105 CMR 725.110(D)(1)(d) through (i).

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 105 CMR 725.105(L) regarding marketing, advertising and signs.

Planning Board SPECIAL PERMIT CRITERIA Section 240-216
In addition to any specific requirements elsewhere in this chapter, or where no specific restrictions are made applicable to a use allowed by special permit, the special permit granting authority shall grant a special permit only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. The provisions of this Article shall not apply to, nor limit in any way, decisions issued under Article XVII of this chapter. The determination shall indicate that the proposed use will be in harmony with the general purpose and intent of this chapter and shall include consideration of each of the following:

A. Adequacy of the site in terms of size for the proposed use;

B. Suitability of the site for the proposed use;

C. Impact on traffic flow and safety;

D. Impact on neighborhood visual character, including views and vistas;

E. Adequacy of method of sewage disposal, source of water and drainage;
F. Adequacy of utilities and other public services;
G. The effect of the proposed project on the adequacy of the supply of affordable housing in the Town

§ 240-108. Table of Minimum Requirements.

See Parking and Access above.

§ 240-111. Performance Requirements.

A. Improve pedestrian or vehicular safety and convenience within the site, egressing from it and in relation to adjacent areas; provide better access to each structure for fire and service equipment;
B. Reduce detrimental impact on neighborhood visual character including views and vistas, intrusion of parking areas viewed from public ways and abutting premises and glare from headlights or area lighting; improve landscaping and buffering;
C. Reduce the extent of storm water flow increase from the site and reduce the hazard and inconvenience to pedestrians from storm water flow and ponding; increase protection of adjacent areas including wetlands from detrimental effects by providing adequate surface water drainage;
D. Improve adequacy of water supply, sewage disposal, disposal of refuse and byproducts, lighting and other public services;
E. Reduce removal of trees with four-inch trunk diameter or larger and reduce the area of wetland vegetation displaced;
F. Reduce the volume of cut or fill;
G. Reduce soil erosion; and
H. Assure protection of environmental features on site and in adjacent areas.

§ 240-111. Landscape Requirements.

For the purposes stated above, the following standards are required to be met. Alternative methods to those described below may be substituted if the applicant demonstrates to the satisfaction of the reviewing agency or special permit granting authority that the intent of this Article is upheld.

A. Xeriscape. To aid in conserving the Town of Falmouth's drinking water supply, xeriscape is required for all applicable development projects unless any of the following criteria are met:
   (1) The applicant provides water for the landscape from a private well.
   (2) The applicant installs an irrigation system (which may use Town water) but only those which drip or mist. Spray or sprinkle irrigation using Town water is prohibited.
B. Planting medium. To reduce the need for watering and fertilizing and to help maintain healthy plants, in formal and naturalized landscapes, soil shall be no more than 25% sand, no more than 10% clay and no less than 65% silt, and decayed organic matter in an amount equal to 25% of the soil by volume shall be added. This is required to the following depths:
   (1) Where trees are planted, to a minimum of four feet within a four-foot radius of the trunk.
   (2) Where shrubs are planted, to a minimum of two feet within a two-foot radius of the trunk(s).
   (3) Where ground covers, herbaceous perennials, annuals or bulbs are planted, to a minimum of one foot within the planting area.
C. Mulch. To prevent soil erosion, weed growth and to help retain moisture and insulate young plants, mulch is required in formal and naturalized landscapes wherever soil is not covered by vegetation.
   (1) Mulch shall be applied on the soil surface in a layer two to four inches deep.
   (2) Mulch shall be used as a temporary cover during the first three growing seasons until vegetation grows to completely cover the ground. Mulch shall not be used as a substitute for ground covers.
(3) Ground or shredded bark, peat moss, pine needles, tree leaves, straw or hay may be used as a mulch.
(4) Gravel or stone chips may be used in areas of high pedestrian traffic, but shall not exceed 10% of the landscaped area.

D. Street trees. To reduce heat and glare on streets and sidewalks, street trees from the approved list are required to the following specifications:

1. Except in B1 Districts, street trees shall be planted no greater than 30 feet apart on a line five feet behind the street frontage. Where an access driveway interrupts this pattern, street trees shall be planted on either side of the driveway, five feet from the edge of pavement and behind the sight triangle at the intersection. Existing vegetation meeting the intent of this Article may be substituted for these requirements.

2. When planted, street trees shall have a trunk diameter of at least two inches at a height of four feet six inches, and shall be free of limbs below seven feet.

3. Street trees shall be maintained so as to reach a height of at least 45 feet at maturity.

E. Front yards. With the exception of certain overlay zones, front yards may be formal, naturalized or undisturbed so long as all surface areas which are not parts of walkways or driveways are completely covered by vegetation within three years.

1. Front yards in Water Resource Protection Districts (see Article XV) or in Coastal Pond Recharge Districts (see Article XXI) shall be naturalized or undisturbed.

2. Front yards in the Wildlife Corridor Overlay District (see Article XX) shall be undisturbed.

F. Parking lot screens. Between the front yard and the parking area, a screen is required so that automobiles cannot be viewed from the street. This may be achieved using any combination of the following:

1. A row of evergreen and deciduous trees at least six feet high, with no more than 50% being deciduous, from the approved list of buffer species, and planted at intervals recommended on the approved list.

2. A hedge at least three feet high, to grow to a minimum of four feet high at maturity.

3. A berm at least four feet high with no slope greater than three to one (3:1), mulched and planted so as to be completely covered by vegetation in three years.

4. A solid fence or wall at least four feet high, the faces of which shall be planted with shrubs at an interval of not less than one every 20 feet with the intervening faces planted with herbaceous perennials, annuals or bulbs in an area not less than two feet wide.

G. Parking lot interiors. Vegetated islands are required within paved areas behind the street setback according to the following specifications:

1. For each parking stall, 40 square feet of vegetated island shall be provided within the paved area. The minimum dimension of each vegetated island shall be four feet, except at corners, and the minimum area shall be 162 square feet.

2. No fewer than one street tree as described in Subsection D (1) shall be planted for each 162 square feet of vegetated island.

3. The remainder of the parking area not used for stalls or driveways shall be planted with any combination of trees, shrubs, ground cover, herbaceous perennials, annuals or bulbs so that the ground is completely covered after three growing seasons.

4. Plants within necessary sight triangles shall be no greater than two feet high.

5. Vegetated islands are required to separate rows of parking stalls and interior driveways.

H. Service area screens. Where service areas exist, they shall be screened from view of the street, parking areas and adjacent properties. This may be achieved using any combination of the following:
(1) A row of evergreen and deciduous trees, at least six feet high, with no more than 30% being deciduous, from the approved list of buffer species, and planted at intervals recommended on the approved list.

(2) A solid fence or wall at least six feet high.

I. Residential buffers. A buffer is required between business or industrial uses and residences, nursing homes, hospitals or similar uses. The buffer shall protect abutting properties from glare, noise, dust, fumes, heat and traffic. This may be achieved using any of the following:

(1) Two rows of evergreen trees, from the approved list of buffer species, at least six feet high, planted at intervals recommended on the approved list, and faced with a row of shrubs at least three feet high.

(2) One row of evergreen trees, from the approved list of buffer species, at least six feet high, planted at intervals recommended on the approved list, and faced with a row of shrubs at least three feet high, and backed with a solid fence or wall at least six feet high.

(3) A berm a minimum of five feet high, with no slope greater than three to one (3:1), planted with trees and shrubs so that the ground is completely covered with vegetation.


Provisions shall be made for vehicular access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation in the street and upon the lot. Access and circulation shall also conform to the following:

A. Where reasonable alternate access is available, the vehicular access to the lot shall be arranged to avoid traffic use of the local residential streets situated in or bordered by residential districts;

B. Where a lot has frontage on two or more streets, the Planning Board may require that the access to the lot be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians;

C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, driveways and traffic controls within the streets;

D. Access driveways shall be of a design and have sufficient capacity to avoid queuing and entering vehicles on any street;

E. Driveways into the lot shall have proper grade and alignment as well as transition grades and sight distances, for safe, convenient and efficient access and shall meet the street right-of-way line and travel way of the street in such a manner as to conform to the standard cross section for the street as determined by the Director of the Department of Public Works and the Planning Board;

F. Where topographic and other conditions are reasonably usable, provision shall be made for circulation driveway connections to adjoining lots of similar existing or potential use. When such driveway connection will facilitate fire protection services and/or when such driveway shall enable the public to travel between two existing or potential uses, open to the public generally, without need to travel upon a street; and

G. There shall be no more than one driveway connection from any lot to any street, except that separate entrance and exit driveways may be provided where necessary to safeguard against hazards and to avoid congestion and additional driveway connections may be provided, particularly for but not limited to large tracks and uses of extensive scope, if traffic flow in the street will be facilitated by the additional connection. Driveways shall not exceed 24 feet in width at the street line, or such lesser width as will be sufficient to accommodate the traffic to be generated unless a greater width is required by Town bylaw or the Commonwealth of Massachusetts.
THEREFORE, given the above and the conditions to be imposed below, the Planning Board finds the proposed use will be in harmony with the general purpose and intent of this chapter and that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town.

**Conditions:**

1. Pursuant to section 240-221 of the zoning bylaw, this special permit shall lapse three years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause.
STAFF REPORT

Site Plan Review:
Section 240-191

406 Woods Hole Road
Map# 50 04 000 005
Residential B (RB)

Applicant:
William T Rogers

Owner:
Darryl J Durivage;
William T Rogers

Applicant’s Agent: N/A

Decision Deadline:
90 day May 12, 2019

Overview
The parcel is located in a Residential B (RB) zoning district located on Woods Hole Road. The lot size is 16,601 sf; the residence contains 4 bedrooms – according to the existing floor plan submitted by the applicant. Applicant is proposing an accessory apartment within the first floor of the primary residence with separate egress on south elevation. The parcel is not located in a Coastal Pond or Water Resource overlay district. The proposed 425 square foot apartment is one bedroom. The primary residence square footage is 1660 square feet, according to drawings provided – finished floor living space is 1,660 square feet resulting in a 26% relation to principle structure floor area ratio.
**Existing Conditions**
Single family cape style house with 4 bedrooms.

**Proposed Conditions**
The applicant proposes to build a one bedroom accessory apartment, converting an existing bedroom, reducing the total number of bedrooms to 3.

**Demolition and Site Preparation**
The applicant is proposing to install two doors for egress into the proposed apartment at the east and south elevation. The applicant is proposing a 4 foot wide crushed stone walk for access to primary residence and accessory apartment.

**Parking and Loading**
Residence having 2 or more bedrooms are required to have 2 parking spaces. As proposed 3 spaces are provided on site. The applicant is proposing a third space with pervious pavers.

**Circulation**
The Fire Department had no comment on emergency access and circulation to and around the site.

**Operations**
Single family home.

**Traffic Generation**
N/A

**Landscaping**
Landscape plan not provided.

**Water and Wastewater**

**Board of Health**
Staff referral attached there is no impact on the septic, no requirement for an upgrade.
No comment from Town Water Department.

**Storm water**
Engineering comment: all changes to structure, no site modification proposed – no comment.

**Review Comments**
As required under the zoning bylaw, the application was distributed to the Tax Collector Board of Health, Inspectional Services, Engineering, Water, DPW, Conservation Commission and Fire. Comments are distributed throughout staff report as needed. Engineering and Board of Health have not responded as of January 16, 2019.

**Local Comprehensive Plan Goal**

**Housing Element**
Policy #1: Falmouth will allow for greater infill residential density where appropriate.
Policy #2: Falmouth will allow and encourage the market to create multiple housing opportunities that allow for more choices.
Findings pursuant to section 240-23.I of the zoning bylaw

a) Only one accessory apartment shall be allowed per lot. One accessory apartment proposed.

b) Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. Condition 2.

c) Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time. Condition 3

d) The accessory apartment shall have no more than two bedrooms and a maximum of 800 square feet of floor area, or 40% of the floor area of the principal dwelling, whichever is less. Proposed apartment is one bedroom and 425 square feet at 26% of floor area.

e) The total number of bedrooms on the lot shall not exceed four when the lot contains less than 20,000 square feet. 4 Bedrooms on a 16,601 square foot lot.

f) Whether allowed as a matter of right or by special permit, accessory apartments located on lots subject to the provisions of the Water Resource Protection or Coastal Pond Overlay Districts the total number of bedrooms shall not exceed one per 10,000 square feet of lot area, unless both the principal dwelling and accessory apartment are connected to the municipal sewer system or to an on-site septic system with enhanced nitrogen removal approved by the Board of Health. Proposed apartment is not in the Coastal Pond or Water Resource Protection Overlay.

g) (4) Design standards. Accessory apartments, whether a part of new construction, reconstruction, alteration or change to a single family residence or accessory structure (attached) thereto, shall maintain the following standards:

(a) The architectural effect, as the result of the accessory apartment being constructed within the principal dwelling, shall be that of a single family residence compatible with the surrounding neighborhood. Compatible.

(b) Parking for the accessory apartment shall be provided in a manner that is compatible with the surrounding neighborhood. Proposed parking on site.

Planning Board Criteria for Site Plan Review Chapter 240-191

The purpose of site plan review is to ensure the design and layout of certain developments permitted as a matter of right or by special permit will constitute suitable development and will not result in a detriment to the neighborhood or the environment. The site plan must consider all performance requirements under Articles 22, Parking Requirements, Article 23, Performance Requirements, and Article 24.

The applicant shall submit such material as may be required regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets and to screen objectionable features from neighbors. Design features shall include but not be limited to site planning, building placement, building size, design compatibility, exterior appearance, construction materials and finishes, parking and roadways, landscaping and site grading, building entrance and exit placement.
The applicant shall submit such materials as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

§ 240-108. Table of Minimum Requirements.

Residential
2 spaces per for 2 or more bedrooms

§ 240-111. Performance Requirements.

A. Improve pedestrian or vehicular safety and convenience within the site, egressing from it and in relation to adjacent areas; provide better access to each structure for fire and service equipment;
B. Reduce detrimental impact on neighborhood visual character including views and vistas, intrusion of parking areas viewed from public ways and abutting premises and glare from headlights or area lighting; improve landscaping and buffering;
C. Reduce the extent of storm water flow increase from the site and reduce the hazard and inconvenience to pedestrians from storm water flow and ponding; increase protection of adjacent areas including wetlands from detrimental effects by providing adequate surface water drainage;
D. Improve adequacy of water supply, sewage disposal, disposal of refuse and byproducts, lighting and other public services;
E. Reduce removal of trees with four-inch trunk diameter or larger and reduce the area of wetland vegetation displaced;
F. Reduce the volume of cut or fill;
G. Reduce soil erosion; and
H. Assure protection of environmental features on site and in adjacent areas.

§ 240-115. Landscape Requirements.

See Section 240-115 for requirements.


Provisions shall be made for vehicular access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation in the street and upon the lot. Access and circulation shall also conform to the following:

A. Where reasonable alternate access is available, the vehicular access to the lot shall be arranged to avoid traffic use of the local residential streets situated in or bordered by residential districts;
B. Where a lot has frontage on two or more streets, the Planning Board may require that the access to the lot be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians;
C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, driveways and traffic controls within the streets;
D. Access driveways shall be of a design and have sufficient capacity to avoid queuing and entering vehicles on any street;
E. Driveways into the lot shall have proper grade and alignment as well as transition grades and sight distances, for safe, convenient and efficient access and shall meet the street right-of-way line and travel way of the street
in such a manner as to conform to the standard cross section for the street as determined by the Director of the
department of Public Works and the Planning Board;

F. Where topographic and other conditions are reasonably usable, provision shall be made for circulation
driveway connections to adjoining lots of similar existing or potential use. When such driveway connection will
facilitate fire protection services and/or when such driveway shall enable the public to travel between two
existing or potential uses, open to the public generally, without need to travel upon a street; and

G. There shall be no more than one driveway connection from any lot to any street, except that separate
entrance and exit driveways may be provided where necessary to safeguard against hazards and to avoid
congestion and additional driveway connections may be provided, particularly for but not limited to large tracks
and uses of extensive scope, if traffic flow in the street will be facilitated by the additional connection.
Driveways shall not exceed 24 feet in width at the street line, or such lesser width as will be sufficient to
accommodate the traffic to be generated unless a greater width is required by Town bylaw or the
Commonwealth of Massachusetts.

CONDITIONS:

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to
determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the zoning bylaw,
no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the
conditions of this approval and predecessor approvals have been met.

2. Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven
months in every calendar year, or owned by a nonprofit organization or government authority whose
purpose is to provide affordable housing. An affidavit shall be submitted annually to the building
commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment
has been owner-occupied for a period of seven months and not otherwise rented as set forth above.

3. Either the principal dwelling or accessory apartment may be rented, but not both during the five months
the owner occupant may be absent. Rental periods shall be no less than six (6) months and
weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal
dwelling nor accessory apartment shall be used as commercial accommodations at any time.