



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

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

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

April 5, 2019

RE: Minutes for Public Hearings and Open Meeting held on March 21, 2019 at 6:30 PM in the Selectmen's Meeting Room – Town Hall Square

Dear Board Members:

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

Continuation(s):

#118-18 Blue Flag Development, LLC, 836 Palmer Avenue, Falmouth

New Hearing:

#007-19 Gardner, 51 Harbor Farms Road, East Falmouth

#008-19 Barnstable County Ag. Society, Inc., 1220 Nathan S. Ellis Hwy., East Falmouth

Open Meeting:

1. Minutes February 21, 2019
2. Board Administrative Review – Stephen and Kelley Shaw Proia, 317 Edgewater Drive W., E. Falmouth – Allow minor modifications from previously approved plans (#048-18)
3. Board Administrative Review -#014-19 Gary S. and Cathy R. Rozynek, Falmouth
4. Board Updates
5. Discuss Date for Future Workshop
6. Board Discussion RE: Zoning Recodification Committee
7. Future Agenda Items

Terrence Hurrie, Chairman, Board of Appeals:

RECEIVED
MAY 7 2019 PM 12:04
TOWN CLERK

Date Minutes filed with Town Clerk:

Town Clerk Stamp

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

March 21, 2019 – 6:30 PM

Draft Minutes

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

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

Continuation(s) 6:30 PM- #118-18 Blue Flag Development, LLC, 836 Palmer Avenue, Falmouth
Special permit to update existing campground, reduce number of campsites from 122 to 108,
remove most existing structures, install parking and construct a clubhouse

Chairman Hurrie called the meeting to order at 6:30 P.M.
The Chairman appointed R. Dugan as Acting Clerk.

Attorney Eliza Cox for the Applicant.

Also present for the Applicant, Brad Guidi of Blue Flag Development, LLC.

Ms. Cox said the project received approval for the septic system from the Board of Health on February 25, 2019 and Site Plan approval and a Special Permit to allow parking in the front yard of the property from the Planning Board on March 12, 2019. There were no changes recommended or required by the Planning Board. Ms. Cox said the Applicant worked diligently to incorporate neighbors' and the Board's comments.

Board Questions and Comments:

The Board asked about the operations plan, and if the Applicant was amenable to 24-hour staffing. Ms. Cox said the other sites by this Applicant have not had 24-hour staffing, without issues. She said they are amenable to require 24-hour staffing when the occupancy is at, or exceeds 30%. At less than 30% occupancy, there will be staffing from 6:00 A.M. to 10 P.M. Brad Guidi said the Russian River site has had this in place, as well as a phone available on site, and a sign that lists a phone tree of three numbers to call, in case of an emergency. The General Manager lives within ten minutes of the campground, and is the first number in the phone tree. The Board discussed granting provisional approval for one year. If there are complaints, the operation plan may be amended.

The Board asked Ms. Cox if the Applicant reviewed the earth moving provision in the Bylaws, §240-151, and Ms. Cox said she submitted a letter on March 11, 2019, taking the position that the provision was intended to apply to sand and gravel mining operations, and is not applicable with this project.

Public Comment: None

A Motion was made by K. Foreman to close the hearing. **Second:** R. Dugan
Motion passed 4-0.

March 21, 2019 – 6:30 PM

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And Zoning Administrator, Noreen Stockman
ABSENT: Ed Van Keuren, (Member)

Board Discussion:

The Board discussed concerns about the operational plan and staffing. Specifically the 24-hour coverage during the winter hours when the Airstreams could be used as affordable housing. The Board agreed that a provisional approval of one year could be granted, where after one year, the Applicant will send a report to the Board about occupancy and staffing, and be back before the Board only as regards the staffing. The Board agreed to adopt the Board of Health, Planning and Engineering comments, and the Notice of Intent to be filed with the Concom, for the restoration of a small wetlands area, near the bike path.

The Board asked the Applicant to provide the slides presented during tonight's hearing. Ms. Cox agreed. There was discussion about the timeframe for the draft motion and Ms. Cox said the April 19, 2019 date suggested by the Board would be past when the closing is scheduled to take place.

A Motion was made by R. Dugan for the Zoning Administrator to prepare a positive draft motion to approve the project, pursuant to §240-33H, for use as a campground, with conditions, and §240-109B and §240-101. The draft will be sent for review to Ms. Cox, for the Applicant, and the Board. If, after review, the Board agrees to adopt the Motion, the Chairman will sign for the Board. **Second:** K. Foreman

Motion passed 4-0.

Findings:

- 240-33H Campground use is applicable.
- 240-109B special permit for permeable driveway is applicable.
- 240-101 Coastal Pond Overlay is applicable.
- Board of Health issued septic approval.
- Planning Board issued Site Plan Approval, and Special Permit
- will be 14 fewer campsites
- improved screening and landscaping
- ADA compliant
- Cesspool and existing septic will be abandoned.
- Complies with 240-216.
- Will have on site staffing at 30% occupancy.
- Fencing will be maintained on the lot.
- Will file a Notice of Intent regarding the restoration of the rear wetlands, near bike path.
- overall improvement to the lot

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- significantly improved stormwater management
- reduction in traffic
- Applicant met with neighbors to address buffer and other concerns.
- improved public safety and site utilities
- amenable to natural buffering, and maintaining existing site as much as possible

Conditions:

- Management plan with overnight staffing at 30% occupancy, conditional upon the Applicant coming back after one year of operation, at which time the Board will review staffing plan as outlined in plan.
- per plans, as revised
- conditions of site plans per Board of Health
- Engineering comments latest revision adopted.
- Final drainage approved by DPW.
- Construction hours will be 7:00 A.M. to 7:00 P.M. Monday through Friday, 8:00 A.M. to 7:00 P.M. on Saturday and no construction permitted on Sundays and holidays.
- Buffered landscaping to be kept in healthy condition and maintained.
- no modifications to plans

Attorney Cox requested to withdraw, without prejudice, the §240-3C preexisting, nonconforming use.

A Motion was made by K. Foreman to accept the Applicant's request to withdraw, without prejudice, §240-3C. **Second:** R. Dugan

Motion passed 4-0.

Documents in the record:

Letters/E-mails from Abutters/Interested Parties

- February 22, 2019 email letter from George Smith, 52 Cachalot Lane
- February 21, 2019 letter from Bonnie O'Neill, 29 Penn Court, Falmouth, MA
- February 20, 2019 email from Pamela Rothstein
- February 20, 2019 email from Jane and Justin Wickens
- February 7, 2019 Letter from David Corcoran, 58 Loop Road, Falmouth, MA
- February 8, 2019 Email letter from Marleen Mitchell, 43 Cachalot Lane
- February 6, 2019 letter from Rev. Barbara Miner, 34 Loop Road, Falmouth, MA
- February 6, 2019 letter from Kate Eldred, 5 Cachalot Lane, Falmouth, MA
- February 5, 2019 letter from Israel Lederhendler, 5 Cachalot Lane, Falmouth

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- February 4, 2019 letter from Lew Stern, 49 Loop Road
 - January 30, 2019 letter from Jane and Justin Wickens, 40 Place Road, Falmouth
 - January 30, 2019 email from Jane and Justin Wickens
 - January 25, 2019 email from Roy and Benda Yarnell, Lot # 5 & 6, Old Palmer Ave, Falmouth
 - January 18, 2019 letter from David N. Lawrence, 174 Queen Street, Unit 8D, Falmouth
 - January 16, 2019 letter from George L. Smith, 52 Cachalot Lane
- Letters/E-mails/Information from Applicant/Representative(s)
- Letter from Anne T. Tessier, Trustee, and Theodore L. Tessier, Trustee, of the Tessier Family Nominee Realty Trust, authorizing Blue Flag Development, LLC to proceed with permits and applications, dated December 16, 2018
 - "Applicant's Authorization for the Proposed Project at 836 Palmer Avenue", signed by A. Terry Sanford, Manager, and P. Bradley Guidi, Manager, dated 1/02/ 2019
 - Letter from Eliza Cox, dated December 26, 2018
 - Letter from Eliza Cox, dated February 20, 2019
 - "Blue Flag Development, LLC, 836 Palmer Avenue", presentation for the Zoning Board of Appeals, dated February 21, 2019
 - "Blue Flag Development Special Permit Applications, 836 Palmer Avenue, Falmouth, Zoning Analysis Narrative", date stamped received December 26, 2018
 - Deed for 836 Palmer Avenue, Falmouth, MA
 - Letter from Bracken Engineering, Inc., December 18, 2018, with
 - o "Nonresidential Nitrogen Loading Calculations"
 - o "Stormwater Report for Blue Flag Development, LLC, for 836 Palmer Avenue, Falmouth, MA, dated December 20, 2018
 - "Memorandum" from Robert J. Michaud of MDM Transportation Consultants Inc., 28 Lord Road, Marlborough, MA , dated December 14, 2018
 - Letter from Eliza Cox, dated March 11, 2019, regarding earth moving regulations
 - Email from Eliza Cox on March 20, 2019, with attached "Autocamp, Falmouth, Operations Overview"
 - "Blue Flag Development, LLC, 836 Palmer Avenue", copy of presentation to the Board, date stamped Mar 21, 2019

Letters/Referrals/E-mails from Town Departments

Note: ZBA sent Referral requests to: Assessors, Building Department, Conservation Commission, Engineering Department, Board of Health, Fire Department, Planning Department, Board of Selectmen and Water Department

- Engineering letter dated 1/17/19
- o e-mail dated 2/20/2019, with
- attached soil survey data,

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- "Existing Conditions", plan for 836 Palmer Avenue, prepared by Bracken Engineering, Inc., dated December 20, 2018, with red highlights
 - "Grading, Drainage & Utilities, Detail Window #1 and #4, dated December 20, 2018, Bracken Engineering, Inc.
 - "Soil Map, Barnstable County, Massachusetts", prepared by Natural Resources Conservation Service, Web Soil Survey, 3 pages, dated 2/20/2019
 - Conservation Commission comments, dated 1/22/19
 - Board of Health comments, dated 1/3/19
 - Water, no comment, dated 1-3-2019
 - Assessors, no comment, date stamped 1/7/19
 - Fire Department, letter, dated 1/7/19
 - Planning, comments, dated 1/2/19
 - Sign in sheet from Site Walk, 2/16/19
 - Special Permit issued by the Planning Board, to construct parking areas within the front yard, dated March 19, 2019
 - Site Plan Review, by the Planning Board, for the addition of 1,000 or more square feet of structure, and the addition of 5 or more parking spaced, dated March 19, 2019
- Plans submitted by Applicant/Applicant's Representative
- "Plan of Land in Sippewissett – Falmouth, Mass.", prepared by Doyle Engineering Associates Incorporated, 530 Thomas B. Landers Road, West Falmouth, MA, dated October 17, 1991
 - "836 Palmer Avenue, Traverse & Staking Worksheet, 02-13-2019", received at site visit 2/16/19 (orientation for campsites)
 - "Proposed Campground Improvements at #836 Palmer Avenue, Falmouth, Massachusetts", revision dated February 21, 2019, including sheets: Title, "Existing Conditions", "Site Development Overview", "Layout & Zoning, Detail Window #1", "Layout & Zoning, Detail Window #2", "Layout & Zoning, Detail Window #3", "Layout & Zoning, Detail Window #4", "Grading, Drainage & Utilities, Detail Window #1", "Grading, Drainage & Utilities, Detail Window #2", "Grading, Drainage & Utilities, Detail Window #3", "Grading, Drainage & Utilities, Detail Window #4", "Construction Notes & Details", and 2 pages entitled "Construction Details", prepared by Bracken Engineering, Inc., 49 Herring Pond Road, Buzzards Bay, MA
 - "Autocamp Falmouth", prepared by Ahern LLC, P.O. Box 2213, Nantucket, MA, comprising pages Cover, L.01, Planting Plan, L.02, Planting Plan, Area 1, L.02.1, Planting Plan, Area 2, L.02.2, Planting Plan, Area 3, L.02.3, Planting Plan, Area 4, L.02.4, Lighting Plan, L.03, and Construction Details, L.04, all dated February 14, 2019
 - "Autocamp Falmouth", dated December 21, 2018, including "Existing Structures Key Plan", 6 pages of photographs of existing conditions, "Illustrated Site Plan", "Clubhouse East Elevation", "Clubhouse West Elevation", "Clubhouse South Elevation", "Clubhouse North

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Elevation", "Illustration Camper Trailer", Illustration Camper Trailer (interior)", "Illustration Camper Trailer- ADA", Illustration Camper Trailer (details)", "Illustration Tent", "Illustration Tent-ADA". "ATC Clubhouse, First Floor Plan, 01", "ATC Clubhouse, Second Floor Plan, 02", "ATC Clubhouse, East Elevation, 03", "ATC Clubhouse, West Elevation, 04", "ATC Maintenance Shed, 05", "ATC Maintenance Shed Elevations, 06", and "Bicycle & Control Shed, 07" (plans and elevations), all dated December 19, 2018.

New Hearings:

#007-19 Gardner, 51 Harbor Farms Road, East Falmouth – special permit to construct garage bay addition

Acting Clerk, R. Dugan, read the Notice of Public Hearing into the record.

Referrals:

- Engineering – standard comments to not direct runoff onto abutting properties
- Board of Health – the septic is for four bedrooms
- No letters in support or opposition

Scott Collum, for the Applicant.

Kellam said the Applicant is looking for a special permit to allow storage to be used in the third garage bay addition, existing garage which footprint is more than 900sf. He said the garage conforms to height and lot line setbacks. Regarding the comments by Engineering, Collum said the project is 241' from the road, is a flat lot, is 80' feet from the rear yard, and, the closest neighbor has a manicured lawn with a 1.5' rise at the lot line so the runoff will not go up hill.

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Board Questions and Comments:

The Board asked about the size of the lot, if the property conforms, if the garage unheated and uninhabitable, about the stairway shown on the plan, and if the garage would be built on a slab. Collum said it is 30,989 sf. and conforms except for exceeding 900 sf footprint threshold. He said the garage is unheated and uninhabitable, the stairway goes to an undormered storage space, and the garage will be on a four foot foundation with a slab floor. The bay will be attached to the side of the house accessed by an existing door. Kellam said the homeowner, when he retires, would like to use the new garage for storage, so he can park his car in the old garage.

Public comment: None

A Motion was made by K. Foreman to close the hearing. **Second:** G. Potamis.
Motion passed 4-0.

A Motion was made by K. Foreman to approve the project. **Second:** G. Potamis.
Motion passed 4-0.

Findings:

- Current lot has no nonconformities.
- Lot coverage with addition will increase coverage well below maximum allowable.
- Height of proposed is below the ridge height of existing house.
- will be no habitable space
- The lot is greater than 30,000 sf.
- The second floor will be for storage, undormered, with non-conforming stairway.
- Engineering comments are unnecessary due to topography of the abutting property and distance to other neighbor and to the street.

Conditions:

- Per plans

Documents in the file:

Letters/E-mails/Information from Applicant/Representative(s)

- Consent for representation, by Joseph Gardner, dated February 4, 2019

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Letters/Referrals/E-mails from Town Departments

Note: ZBA sent Referral requests to: Assessors, Building Department, Conservation Commission, Engineering Department, Board of Health, Fire Department, Planning Department, Board of Selectmen and Water Department

- Engineering, comments dated 3/6/19
- Conservation Commission, no comments, dated 2/20/19
- Board of Health, comment, dated 2-15-19
- Water, no comment, dated 2-11-2019
- Assessors, no comments, dated 2/11/19
- Fire Department, no comment, dated 2/7/19
- Planning, no comments, dated 2/7/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Proposed Additions", prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, dated 11-29-18
- "Gardner Addition", Foundation Plan View, S-1, Exterior Elevations, A-3, Exterior Elevations, A-4, and 1st & 2nd Floor Plan Views, A-1, all prepared by Michael Hally Design, Inc., 7 Olde Coach Road, Westborough, MA, dated 11-17-18

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#008-19 Barnstable County Ag. Society, Inc., 1220 Nathan S. Ellis Hwy., East Falmouth –
special permit to allow non-agricultural events with associated parking and parking for a fee

Acting Clerk, R. Dugan, read the Notice of Public Hearing into the record.

Referrals:

- Board of Health – Any event with food must contact BOH thirty days prior
- No letters in support or opposition

Wendy Brown, for the Applicant.

Board Questions and Comments:

The Board asked if the Applicant is amenable to all of the conditions in the old special permit. Brown answered yes. There was brief discussion about the previous year with Fire and Police Departments. Brown said she meets with the chiefs of both departments, and reviews past event issues as well as with the Water Dept. She said incorporated into the vendor letters the request by the Board of Health regarding 30 day notice, prior to an event.

A Motion was made by R. Dugan to close the hearing. **Second:** G. Potamis.
Motion passed 4-0.

A Motion was made by R. Dugan to approve the Special Permit. **Second:** G. Potamis.
Motion passed 4-0.

Findings:

- Will comply with Board of Health referral. Vendor letters have been drafted with language.

Conditions:

- Comply with Board of Health Referral.

Documents in the file:

Letters/E-mails/Information from Applicant/Representative(s)

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- "Cape Cod Fairgrounds Schedule of Events, Barnstable County Agricultural Society, 2019".

Letters/Referrals/E-mails from Town Departments

Note: ZBA sent Referral requests to: Assessors, Building Department, Conservation Commission, Engineering Department, Board of Health, Fire Department, Planning Department, Board of Selectmen and Water Department

- Engineering, no comments
- Conservation Commission, no comments, dated 2/20/19
- Board of Health comments, dated 2/11/19
- Water, no comment, dated 1-15-2019
- Assessors, no comments, dated 2/12/19
- Fire Department, no comment, dated 2/12/19
- Planning Board, no comments, dated 2/11/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Land in Falmouth, MA", prepared by Stephen A. Haas, Engineering, P.O. Box 16, South Dennis, MA, dated January 23, 2018

Open Meeting:

1. **Minutes February 21, 2019 and March 7, 2019**

A Motion was made by K. Foreman to approve the Executive Session Minutes of February 21, 2019 and not release to the public. **Second:** G. Potamis.

Motion passed 4-0.

A Motion was made by G. Potamis to approve the Executive Session Minutes of March 7, 2019 and not release to the public. **Second:** K. Foreman.

Motion passed 4-0.

2. **Board Administrative Approval – #009-19 Stephen and Kelley Shaw Proia, 317 Edgewater Drive W., E.Falmouth – Allow minor modifications from previously approved plans (#048-18)**

Zoning Administrator N. Stockman said the project was approved in August, but the homeowners decided not to build the full second story as previously approved, but prefer to maintain the roofline with some dormering.

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A Motion was made by K. Foreman to approve. **Second:** G. Potamis
Motion passed 4-0.

3. **Board Administrative Approval** - #014-19 Gary S. and Cathy R. Rozynek, Falmouth –
Allow minor expansion to existing deck (30sf±)

Zoning Administrator N. Stockman said the Applicants are looking to square off a piece of their deck, to have lot coverage slightly increase to 20.5%. There are no setback issues.

A Motion was made by R. Dugan to approve the plan. **Second:** G. Potamis
Motion passed 4-0.

4. **Board Updates –**

Chairman Hurrie said a proposed fee of \$50 for administrative approvals will be on the Selectmen agenda for Monday night.

There are still open seats on the Board. G. Potamis has applied for a full voting position and there is also an open position for an alternate member. Chairman Hurrie encouraged anyone interested to apply. The Hearing for appointments will be April 22, 2019.

5. **Discuss Date for Future Workshop:** Tabled

6. **Board Discussion:** RE: Zoning Recodification Committee
The Committee will meet on March 27, 2019 at 11:00 A.M.

7. **Future Agenda Items -**

To discuss height limitations in business redevelopment zones. N. Stockman said the issue will come up during the April 18, 2019 hearing. Town Counsel and Building Commissioner have differing opinions on the issue.

Adjourned at 7:37 pm.

The Board reserves the right, by vote, to take items on the above Agenda out of order. Next Scheduled Public Hearings will be held on April 18, 2019 at 6:30 PM – Selectmen's Meeting Room – Town Hall

