Falmouth Planning Board  
Selectmen’s Meeting Room, Town Hall – May 12, 2020  
Virtual Meeting - 6:30 pm  
MINUTES

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

The Clerk read the following statement:
In accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Corona virus outbreak emergency, the May 12, 2020 public meeting of the Falmouth Planning Board shall be physically closed to the public to avoid group congregation.
Alternative public access to this meeting shall be provided in the following manner:
1. The meeting will be televised via Falmouth Community Television.
2. Real-time public comment can be addressed to the Planning Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.
   a. Zoom Login instructions:
      i. Instructions and the meeting link for this specific meeting can be found at the following web address: http://www.falmouthmass.us/1112/Planning-Board
      ii. Please plan on 10-15 minutes of preparation time to log in through it may be less if you have previously used Zoom on the device you will use to access this meeting.
3. Additionally public comments may be sent in advance of the meeting to planning@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.
4. Applicants, their representatives and individuals with enforcement matters before the Planning Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Planning Board may contact the Planning Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the planning@falmouthma.gov so that they may be displayed for remote public access viewing.

Pat Kerfoot called the meeting to order at 6:45 pm.

MINUTES: April 28, 2020
MOTION by P. Dreyer/C. Harris to approve the minutes of April 28, 2020.
Voted 6-0-0

APPROVAL NOT REQUIRED PLAN:
Applicant: Arthur and Sally Hampton – Plan of Land to divide one lot into three lots 292 Waquoit Hwy (BSS Design).
MOTION by J.Fox/R.Leary that the Planning Board vote to endorse “Approval under the Subdivision Control Law not required”. The plan does not depict a subdivision by definition. This endorsement is without regard to zoning or buildability and should not be construed as an approval that the lots shown are entitled to a building permit.

Voted 6-0-0

PLANNING BOARD DISCUSSION:

Applicant: William Chalkley – Site Plan Review application for a detached accessory apartment located at 404 Hayway Road (Holmes and McGrath)

J.Fox – I thought it was the perfect plan. The building sits behind the main house and has a single-family appearance from the street. It is one of the best I’ve seen.

C.Harris – I agree with Jim. It looks like it will be a very good project.

R.Leary – This type of zoning has reduced the amount of habitat for wildlife. I don’t buy the argument that this will disrupt the wildlife.

P.Dreyer – The project was well laid out and I see no problem with it from a Planning Board perspective.

P.Kerfoot – I like the plan.

R.Leary – It meets all the tenets of the bylaw and all of the criteria.

P.Kerfoot – The thing that troubled me a bit is a hanging last sentence under number 5 in the Staff review.

Chalkley – Where the cottage will be is very flat, so we plan on putting drywells in when they excavate the foundation.

Motion will be drafted for June 9th meeting.

Sunrise Estates Bonus Lots/Shamsi Request

T.Bott – We have been talking about this in-house with Town Counsel. This is a very unusual case and there are no clear precedents to follow. The permit expired but was then revived in 2019. Additional research has been done. Mr. Duffy said the applicant can’t build on the two bonus lots is because he didn’t build within the three year window; not because 240-138 was repealed in 2012. The right to build expired in 2008, or 4 years after the repeal. With the two year window granted by the Planning Board, the applicant can continue today. The special permit issued in 2004 has been exercised, at least in part, and despite the repeal of the relevant bylaw in 2012, the old bylaw remains in effect for this project until it is completed. Note the Planning Board itself revived it by granting Mr. Shamsi the additional time to January, 2021. To be consistent the Planning Board may also change the terms and conditions of the special permit. If a Planning Board special permit is changed, it should be the Planning Board that makes the change. The permit is good until January 23, 2021.

J.Fox – I thought that we had given this developer way more than enough time. A lot of the work has already been done; we are wasting a lot of time.

R.Leary – I agree with Jim. He has had more than ample opportunity.

P.Dreyer – I agree. We have spent an awful lot of time.

J.Druley – I don’t remember that we had put a dollar amount in there when we extended it. Numbers were in the original decision. I think we could structure this a little differently so he could sell the lots and the money could be donated.

T.Bott – He had to come up with $200,000 per lot and deposited into a local housing fund. Counsel has said that if the Board wanted to go back and evaluate those conditions; that is within the Board’s right.

J.Druley – We could now determine a new structure. We could have the lots appraised and he could sell them for those amounts; and he could give the money to a fund of our choosing.

T.Bott – There are three options.
J.Druley – My thought is that would allow Mr. Shamsi to purchase the lots himself and sell them or build them or whatever he needs to do. There will be no money for affordable housing if these lots just sit there. He has no incentive to finish.

C.Harris – It would cost us no time or money to make this work.

J.Fox – I believe there have been lots marketed and sold of here. He’s had plenty of time. How many times do we do this?

P.Kerfoot – I would like to open another hearing and have some evaluations done and see what can be done.

J.Druley – I would like to do the same thing.

P.Dreyer – I am reluctant to go through a whole new hearing. We know what the issues are.

**MOTION** by P.Harting-Barrat/C.Harris that the Planning Board investigate the options to reopen the Special Permit with consulting with Town Counsel; to investigate to offer the opportunity to renegotiate the terms of the deal and work with Town Counsel in developing that process.

C.Harris – Yes

J.Druley – Yes

P.Dreyer – Yes

R.Leary – Yes

J.Fox – Yes

P.Harting-Barrat – Yes

P.Kerfoot – Yes

**Voted 7-0-0**

Charlotte & Tom will attend the ZBA Hearing.

**Blue Flag Campground update**

Blue Flag Developer Brad Guidi – I have been in constant communications with representatives of Saconessett Hills. There were originally 122 camp sites and we reduced that to 108. There are less campsites now. The site is in an ugly duckling stage. We have consolidated all the parking into one area with heavy landscaping to buffer it from the road. We are putting in an over $1 million innovative wastewater treatment system. We put all new utilities in. We are putting in a site wide storm water management system. The wetland area was overgrown with invasive species and we are doing a total remediation. This site was zoned Public Use. We are significantly improving this site. The trees went down to install sewer and electric to the site; that is all done underground. The clubhouse is not terribly ugly as we are building it. We have been delayed along with the rest of the world. We are putting the siding onto the clubhouse now. None of the plantings have gone in yet. We are doing our absolute best to keep this project moving. Once we get the wells in, we can get the landscaping in. We are waiting on the Building Department to open so that we can get a building permit. The current delivery date of the entire site is essentially mid-October.

P.Dreyer – It looks like an ugly duckling at this time. It is at a stage of development that is not very good looking.

J.Fox – People are looking at what’s there and not what is going to be there.

**Future agendas for pending applications**

T.Bott – We have a fair amount of applications queued up. We have 350 Old Meethouse Special Permit; 32 Walker Street accessory housing unit; Woods Hole Partners plans. The Board has the ability to defer projects that are particularly complex in nature. Some things will have to be pushed back and we are working with those applicants.
ANNOUNCEMENTS:
None.

GENERAL CORRESPONDENCE: April 29, 2020 thru May 12, 2020
Hayway Road

FUTURE AGENDA ITEMS:
Sunrise Estates Bonus Lots/Shamsi ZBA Hearing update
C.Harris – Updates on the Dome project; the things that are out there hanging; bylaw recodification.

NEXT MEETING: June 9, 2020

Meeting adjourned at 8:21 pm.

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Sheri Theroux, Recording Secretary
Disclaimer
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1" = 141 ft

Town of Falmouth
May 11, 2020
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1" = 35 ft

Town of Falmouth

May 11, 2020
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Planned Residential Development

Article XXV of the Zoning Bylaw establishes the procedures and restrictions for open space and planned residential developments. Subdivisions that meet the minimum standards may apply for a special permit that waives certain subdivision requirements in return for preserving open space. By clustering dwellings, open space remains available for recreation or conservation purposes. These lands are then restricted by easement or conveyed to the town.

Historic Districts

Special Legislation enacted in 1975 enables Falmouth to designate Local Historic Districts that promote the preservation of historical buildings and places of historic interest. Seven districts have been identified, including the Village Green, which provides a pleasant entrance to Falmouth Center and Quissett Harbor, a large district added in 1993. In these districts, the Historic Districts Commission is appointed to review any new construction, or alteration to existing structures.

Wildlife Corridors

A Wildlife Corridor Overlay District was adopted in 1988 (Map 3-9). The purpose of the bylaw was to establish and preserve contiguous migration corridors and habitat areas for wildlife, primarily white-tailed deer. The bylaw identifies two types of habitat: deer migration (shown in orange) and dispersal, or foraging (shown in green). Within the overlay, large projects may be required to cluster structures, set aside protected open space, or augment existing migratory routes, and otherwise minimize potential negative impacts on wildlife habitat. The bylaw also requires that the Falmouth Department of Natural Resources perform yearly evaluations of projects permitted in these areas and to make recommendations for any improvements that would lessen negative impacts.
STAFF REPORT

Site Plan Review:
Section 240-191
404 Hayway Road
Map# 17 01 035 014
Agricultural A (AGA)

Applicant:
William Chalkley

Owner:
William Chalkley

Applicant’s Agent: N/A

Decision Deadline:
90 day from April 18, 2020

Overview
The parcel/residence is located in Agricultural A (AGA) zoning district in East Falmouth. Hayway Road is located between Sandwich Road and Old Barnstable Road off of Currier Road. The lot size is 60,824 sf; the residence contains 3 bedrooms – according to the existing floor plan submitted by the applicant. Applicant is proposing an accessory one-bedroom apartment. The parcel is located in the Water Resource Protection District and a Coastal Pond overlay district-Great Pond. The proposed 712 square foot apartment is a one-bedroom apartment. The primary residence square footage is 1,793 square feet according to drawings provided – the proposed apartment finished floor area ratio to the primary structure is 39.71%.

Existing Conditions
Single family house with 3 bedrooms and attached one car garage.

Proposed Conditions
The applicant proposes to construct a new-detached one-bedroom accessory apartment in the rear of the property behind the principal house.

Parking and Access
Residence having 2 or more bedrooms are required to have 2 parking spaces. The applicant has a paved driveway and states they have 4 parking spaces but it is not shown on the plan where exactly those 4 spaces are.
Emergency Access

Fire Department had no comment

Health Department: 4/21/20

The property currently has 3 bedrooms and a 3 bedrooms septic system. The applicant is proposing to add another bedroom capacity to the septic system to allow for a bedroom in the accessory apartment. This is acceptable. The property is 60,000 ft2 so the property can have an additional bedroom without triggering the I/A technology requirement.

Engineering 4/29/20:

Sewage

• Expansion of the existing subsurface sewage disposal system is proposed. Review and approval is subject to the Health Department.

Water

• A 2” water service is proposed for the accessory apartment. Review and approval of the potable water system is subject to the Water Department.

Parking and Access

• Access to the accessory apartment will be via the existing driveway for the main residence. No expansion of the parking is proposed and no work is proposed in the public Hayway Road right of way, therefore no Street Opening or Driveway permit from Engineering will be required.

Grading and Drainage

• We recommend that the Board add a condition that requires the addition of dry wells, rain garden, or other stormwater infiltration measure for the new roof area at a minimum.

Water and Wastewater

Water Department: 4/22/20

Plan properly shows a separate water service, sized at 2 inches for a separate occupied structure. When the proponent is ready, the plan is sufficient to apply for a new water service at the DPW-water at 416 Gifford Street.

Review Comments
**ZBA:** The applicant will need to submit a special permit application with the ZBA

**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, or 40% of the principal dwelling, whichever is less, as measured using the exterior side of the first floor outside wall. Plus as follows: finished attic space, 50% of first floor; finished half story, 75% of first floor; three-quarter story (gambrel), 90% of first floor; second floor colonial, 100% of first floor; and third floor colonial, 100% of first floor. *Proposed apartment is a one bedroom apartment and 712 square feet at 39.71% 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. *Not 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. *Proposed apartment is in the Coastal Pond Overlay – MEP Great Pond and is located in the Water Resource Protection District. The primary residence is 3 bedrooms and the proposed accessory dwelling unit is 1 bedroom. Therefore, the total number of bedrooms will be 4 bedrooms for a 60,824SF lot.*

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 as a detached accessory structure, shall be that of a structure incidental to a single-family residence and in the same character and period of architecture as the primary residence. *Compatible.*
Parking for the accessory apartment shall be provided in a manner that is compatible with the surrounding neighborhood. *Paved Driveway shown on the plan.*

**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 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.

**§ 240-196. Access and circulation.**

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.

4. The accessory apartment structure will be assigned the address 404A Hayway Road. Engineering will assign the address when we sign the Building Permit.

5. “Upon completion of construction, the Applicant shall post the address for this residence per
§99-1 Affixing of legible numbers required; time limit for compliance.”

404A should be posted on the structure visible as you come up the driveway as well as posted at the driveway intersection with Hayway Road. other stormwater infiltration measure for the new roof area at a minimum.

6. The applicant will install dry wells, rain garden or other stormwater infiltration measure for the new roof area at a minimum.