RE: Minutes for Public Hearings and Open Meeting held on May 23, 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):**

#006-19 Locustfield LLC - 0 Locustfield Road, Hatchville

**New Hearing:**

#016-19 Bouvier, Trustees – 359 Edgewater Drive East, East Falmouth
#017-19 Nicholson – 40 Maple Street, Teaticket
#018-19 Delinks/Ahearn – 188 Nathan S. Ellis Hwy., Hatchville

**Open Meeting:**

1. Minutes of April 18, 2019 and May 2, 2019
2. Board Administrative Approval #032-19 WCS, Inc. – 225 Main Street, Falmouth – Allow seasonal, temporary tent (yearly permit)
3. Board Updates
4. Discuss Date for Future Workshop
5. Board Discussion RE: Zoning Recodification Committee
6. Future Agenda Items

Terrence Hurrie, Chairman, Board of Appeals:

Date Minutes filed with Town Clerk: ________________________________

Respectfully submitted
Joanne Robbins, Recording Secretary
Noreen Stockman, Zoning Administrator
May 23, 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);
Ed Van Keuren, (Member); Robert Dugan (Member);
Gerald Potamis (Member);
Mary Barry, (Alternate)
And Zoning Administrator, Noreen Stockman
Absent: Kenneth Foreman, (Vice Chairman); James T. Morse (Alternate)

Chairman Hurrie brought the meeting to order at 6:37 P.M.
Chairman Hurrie appointed R. Dugan as Acting Clerk.

A Motion was made by R. Dugan to take Agenda Item Board Administrative Approval #032-19
WCS, Inc.225 Main Street, Falmouth- Allow seasonal, temporary tent (yearly permit) out of
order. Second: E. Van Keuren. Motion passes 4-0.

The Applicants, Mark and Cynthia Cilfone of La Cucina Restaurant, 225 Main Street, Falmouth.
Mr. Cilfone stated that they have utilized a tent of the past 12 years, and he submitted a plot
plan, showing the tent location, into the record.

Document in the record: “Certified Plot Plan, La Cuccina Sul Mare (sic), 237 Main Street
Falmouth, Massachusetts”, prepared by BSS Design, 164 Katharine Lee Bates Rd., Falmouth,
MA, stamped and signed May 15, 2019.

A Motion was made by G. Potamis to approve as planned. Second: E. Van Keuren. Motion
passed 4-0.
New Hearings 6:30 PM:

#016-19 Bouvier, Trustees, 359 Edgewater Drive East, East Falmouth - special permit to construct an attached garage addition, exceeding 20% lot coverage by structures

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

Referrals:
- Engineering - Standard comments on drainage. Additional information will be needed for driveway pitch, elevation, grades. The town will not accept runoff onto public rights of way. Applicant needs to obtain special permit and driveway permit to complete work as approved in permit. Recommend additional drainage measures.
- Board of Health - Comments were addressed and BOH is satisfied.

Beth Frawley for the Applicant. Frawley responded to Engineering referrals and said the Applicant is willing to remove existing asphalt driveway, and replace with pervious if conditioned, and meet engineering concerns.

Board Questions and Comments:
The Board asked:
- Are there any wetlands on the property?
  Frawley: The plan was reviewed by Concom, due to the flood zone, and it had no comments.
- Does the Applicant intend to keep the shed?
  Frawley: The owner would like to keep the shed.
- Will the garage will be on a concrete slab?
  Frawley: yes.
- Will garage contain any habitable space?
  Frawley: There will be storage above but no living space. There will be a pull-down stairway to access storage.
- Is the Applicant amenable to adding drywells?
  Frawley: The Applicant is amenable to all Engineering comments and will remove asphalt if asked to do so.
- How much is the lot coverage increased?
  Frawley: Up to 22.9%

Public comments:
Lawrence Barret, 367 Edgewood. Is in support of the project.
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<tr>
<th>Document(s) Submitted</th>
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<tbody>
<tr>
<td>Application fee</td>
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Submitted By: S. McGinn
May 23, 2019 – 6:30 PM
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Board of Appeals Public Hearings & Open Meeting
Selectmen's Meeting Room – Town Hall, Falmouth
PRESENT: Terrence J. Hurie (Chairman);
Ed Van Keuren, (Member); Robert Dugan (Member); Gerald Potamis (Member);
Mary Barry, (Alternate)
And Zoning Administrator, Noreen Stockman
Absent: Kenneth Foreman, (Vice Chairman); James T. Morse (Alternate)

A Motion was made by G. Potamis to close the hearing. Second: E. Van Keuren.
Motion passed 4-0.

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

Findings:
- NOI issued by Concom.
- Board of Health accepts plan.
- not substantially more detrimental
- increases utilization
- Applicant agrees to work with Engineering to mitigate runoff pursuant to Engineering’s comments dated April 11, 2019.
- Storage will be above the garage. There will be no habitable space, and no basement.

Conditions:
- Per revised plans
- Applicant shall obtain approved driveway permit and post bond.
- Applicant agrees to permeable driveway.
- No habitable space above garage.

Documents in the file:
- “Proposed Addtion (sic) 359 Edgewater Drive East, East Falmouth, MA”, prepared by Collins Civil Engineering Group, Inc., 225 South Main Street, West Bridgewater, MA, dated 4-4-19
- “Zoning Board of Appeals- Comparative (sic) Land Coverage of neighboring Properties” for 359 Edgewater Dr. East
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#017-19 Nicholson, 40 Maple Street, Teaticket - special permit to remove existing deck and replace with a four-season room

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

Referrals:
- Engineering- standard comments regarding drywells and public ROW runoff
- Assessors- Lots 98 ad 99
- Board of Health- Property is located in IPSSA. The open tie-in permit from February of 2018 needs to be closed out.

Terrence Quinn for the Applicant. Quinn said the Applicant plans to remove the existing deck and replace with a four-season room, slightly decreasing lot coverage from 24.8% to 24.75%. Quinn said the Applicant will put in a drywell, to control runoff.

Board Questions and Comments:
Chairman Hurrie asked if the Applicant would close out the open tie-in permit. Quinn said the property is connected to the sewer, and the Applicant will close out the permit.

Public Comments: None

A Motion was made by G. Potamis to close the hearing. Second: E. Van Keuren.
Motion passes 4-0.

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

Findings:
- increases utilization
- slight decrease in lot coverage
- replacing existing deck, not expanding.
- Property is tied into sewer. Applicant will close out tie-in permit.
- meets §240-216 not substantially more detrimental
- willing to install drywells
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Conditions:
- per plans
- Tie-in permit must be closed prior to construction
- comply with Engineering comments

Documents in the file:
• "Lot Coverage/Bulk Calculations Worksheet", submitted by T. Quinn, dated stamped May 10, 2019 (12 neighboring properties have lot coverage exceeding 20%)
• "Plot Plan of Land, Prepared for Paul and Barbara Nicholson", prepared by John Doyle, PLS, 170 Cloverfield Way, E. Falmouth, MA, rev. dated 4-29-19
• "Nicholson Residence", including Second floor Addition Design, including Sheets A1, A2, A3, dated 6/23/11, and Addition Design, including Sheets A1, A2, S1 and D1, dated 11-7-2018, prepared by Designs by SPB, Pocasset, MA

#018-19 Delinks / Ahearn, 188 Nathan S. Ellis Highway, Hatchville – Modification of special permits #2374 and #25-05 to modify the uses to include dog training, pet adoption and self-service grooming

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

Referrals:
- Engineering, BOH, Concom, Water, Assessors, Fire, Planning - no comments

Stephen McKenzie for the Applicant.
McKenzie said the Applicants are seeking a modification of two existing special permits of 1982 and 2005. The zoning district is Agricultural A. The applicant sold the business on the property 18 to 20 years ago, but retained ownership of the building, and the property. The lease for the present animal hospital expires in June, and the animal hospital is moving. The Applicant wants to make use of the building with a new dog-related business that will blend with the Pet Resort next door. There are no proposed changes to the exterior of the building, and no changes to the site plan. The Applicant plans to make more usable space inside, and that might require more plumbing. McKenzie said the plan meets all zoning requirements and complies with §240-216. There was a 2005 traffic study, and no changes are anticipated.

Board Questions and Comments:
The Board asked:
- Does the Applicant need a modification to tie into sewer?
  McKenzie: No. There will be a denitrification system.
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- Will there be any changes to parking?
  McKenzie: No, it will be the same as currently exists.

- What changes will occur in the interior?
  Nothing currently, but down the road a couple of walls may be opened up to allow for
  more customers. Right now, there is dog boarding, grooming, training and sales. There
  will be a BYOD (bring your own dog) for bathing.

- Explain the pet adoption process.
  McKenzie: The Applicant is working with an agency on Martha’s Vineyard called Forever
  Home Rescue, and pet adoptions will be within the building.

- What are the hours of operation?
  The Applicant said he didn’t want to give definite hours but felt it was safe to say from
  7:30 AM to 5:30 PM Monday through Sunday, hours that are similar to the pet resort.
  The demand is generally increased in the summer time.

- Which licenses do you hold?
  The Applicant said he has a kennel license from the Town, for twelve dogs or more. He
  said pet adoption will most likely happen on weekends. Interest in day care for dogs has
  increased in the past 10 years.

The Applicant also said the Samson Fund provides money for individuals who need veterinary
  care for their dogs, but cannot afford it.

Public comments: none

A Motion was made by G. Potamis to close the hearing. Second: E. Van Keuren.
Motion passed 4-0.

A Motion was made by G. Potamis to approve the plan. Second: E. Van Keuren.
Motion passed 4-0.

Findings:
  - subject to §240-3C pre-existing non-conforming
  - extending current use
  - no issue with BOH
  - potential for exterior fencing in the future
  - owner maintains current kennel license

(The Board held a brief discussion about exterior fencing, style and height).
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<th>Applicant Name: Breastfield UC</th>
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(3) Cepius - rent plan sheet 5/14/19 A. K. Magrath
Letter w/ Attachments 5/19 A. K. Magrath
Letter re.: name, values, support 5/19 A. K. Magrath
Letter w/ Attachments 5/19 A. K. Magrath
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Amended waived request 3/7/19
Letter from Engineer 3/7/19
Letter in opposition 3/11/19

3 letters of comments in support 4/11/19
3 letters in opposition 4/11/19
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May 23, 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);
Ed Van Kuren, (Member); Robert Dugan (Member); Gerald Potamis (Member);
Mary Barry, (Alternate)
And Zoning Administrator, Noreen Stockman
Absent: Kenneth Foreman, (Vice Chairman); James T. Morse (Alternate)

Conditions:
- maintain kennel license
- no exterior changes
- outside fencing plan should be submitted to the Board in accordance with conditions of special permit
- hours of operation between the hours of 7:30 AM to 6:00 PM Monday through Sunday. (Applicant prefers to leave hours open.) McKenzie said there are only two neighbors, Cavoza Construction (in support) and the Commonwealth of Massachusetts. Neighbors should not be an issue.

Documents in the file:
• “Floor Plans – Units 1 and 2, for #188 Nathan B. Ellis Highway”, prepared by Falmouth Engineering, 29 Simpson Lane, Unit 1, Falmouth, MA, dated March 7, 2014
• “Site Plan”, prepared by Falmouth Engineering, 29 Simpson Lane, Unit 1, Falmouth, MA, rev. dated 12/14/04

The Board took a ten-minute break and returned at 7:27 PM.

Continuation(s) 6:30 PM – #006-19 Locustfield, LLC, 0 Locustfield Road (Lot 2), Hatchville – Comprehensive permit to construct twelve (12) single family detached units

Laura Moynihan for the Applicant.
Tom Borselli for the Applicant.
Attorney Michael Shultz for neighbors, Marston and Bento.

Chairman Hurrie, for the record, clarified that there are only four voting members tonight and Attorney Moynihan said she wished to reserve the right for K. Foreman (absent) to review the record, and be able to participate, in accordance with adopted Town policies.

Attorney Moynihan said a previous plan submitted to the Board shows two of the septic systems proposed are in Zone C of Contribution, the DEP’s least significant zone. Since that time, Mr. Borselli has reviewed the plan and determined only one lot lies in Zone C. Borselli plotted a red line on the plan that runs through the last lot, Lot 7, which shows a small portion of the property in Zone C. He said that house could be flipped, and the septic system placed on the left side of the red line, which would put all septic systems outside of Zone C. Moynihan said the Applicant is willing to do this, and the Board could make this a condition.
Board Questions and Comments:
The Board asked:

- If the house was flipped, how would that affect the dead-end with the driveway layout?
  Borselli showed where the septic is on the plan. He said the Applicant could move the building, by doing a mirror image. Everything would fit, and nothing would be within Zone C. Moynihan said there are no prohibitions for septic systems in Zones B and C.

- In your letter you said there will be no flow of grey water to Mares Pond. Do you mean septic as grey water?
  Borselli answered yes.

- Did the Applicant and the neighbors come to an agreement with the Town and the utility as to the ROW through the utility easement?
  Moynihan said that was raised as a possibility and the Applicant would be willing to request that of the Town, and the utility, on behalf of the neighbors. She said this is a Town-sponsored project. The DPW could help, and would probably work with the Applicant.

- There has been some debate on the height of the fences. Did the Applicant and the neighbors agree to share cost of higher fence?
  Moynihan said no. She said there have been a number of requests for additional items for this project. Those requests in conjunction with an 8 ft.-high fence, add up to significant costs taken all together. She said the Board could make a condition for fencing.

- What is the current fence proposal?
  Borselli showed the plan, where the fencing was modified to continue behind the first two lots on each side, starting at Locustfield Road.

Attorney Shultz said the fencing proposal tonight is the same as the first proposal offered. He said his clients did reach out. He spoke about the Board’s power under 40B, to condition a special permit. His clients seek fencing all the way down the property line, to the easement. He referred the Board to his letter of May 16th. He said if there are too many conditions, it could trigger an appeal by the developer, and could render the project not economical. Too few conditions can trigger an appeal by the abutters. He said there are safety and traffic concerns requiring a fence for children and animals, with houses close to property lines. Shultz said he would request 1. The permit be conditioned for a 6’-stockade fence along the boundary line from Locustfield to the easement area, along each property line. Mr. Schulz reported that the cost for the fencing is less than reported. 2. No lighting on the back of the homes. 3. Disburse the affordable units throughout the development, so they are not all on one side of the road.
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- Would the Applicant be amenable to low-level lighting?
  Schultz said yes, something pointing down and not shining in the homes’ windows.

- You haven’t presented any evidence that would allow us to deny this permit. This Board doesn’t handle traffic safety. There was testimony from the abutters there is a concern with crime. Would you be amenable to motion sensing lighting? Shultz said the neighbors have been up front with extremely reasonable requests. We are not seeking a denial, but we want a successful project, with reasonable requests. We’re looking particularly toward safety.

- Your costs are markedly less than the developer. Would you consider splitting the cost of the fence considering the fence is for the purpose of preventing trespass onto their property?
  Shultz said he would be happy to discuss that with his clients, but requested that the developer will maintain the fence in perpetuity.

- The Board hasn’t seen any evidence or technical information to date from you that this project needs a nutrient nitrification plan.
  Shultz said his clients have not retained an expert, but will if they appeal the decision.

Stephen Rafferty, Town of Falmouth Water Department.
Rafferty said the project, as proposed, shows a water main that dead ends on a hammerhead end. He asked if that road was a driveway or a road, and said any water main installed in a road will become the property of, and be maintained by the Water Dept. Rafferty said he has an obligation to maintain and make sure the design to Town standards. The property has a water main on the Gifford and Locustfield side. Rafferty requested that the Applicant extend the water main to the western boundary. He said if the road is a roadway, the Town will be the owner of record and would have a right to a utility easement for a water main. If it is a driveway, it is a private water main that the Town doesn’t fix or maintain. Mr. Rafferty stated that they have previously received an easement to bring water through the electric line easement. The distance here is estimated to be 250 feet.

He said the State does have specific definitions for surface water supplies in Zones A, B and C. He said his issue is that the State’s regulations for surface water bodies are written and predicated on a presumption that the surface water body is fed by, and discharges into, a stream. The concept is that the overland flow of water through a stream gets to a reservoir. With Long Pond, there is no stream in or out. All the water in Long Pond is groundwater. The Town recognizing that fact, spent effort and time years ago, delineating where the groundwater comes from, and feeds to Long Pond (a water supply). The Town’s Overlay Water District was
created after this study and analysis was done. This parcel sits in a water resource district, and water flowing under the parcel, is flowing into Long Pond. Rafferty said the Town’s bylaw was created for this, specifically looking at density and usage of parcels. Mr. Rafferty stated that the local By-Law was intended to mirror the State’s well requirements.

Attorney Moynihan said the road is a subdivision road that will be accepted by the Town. She said there is a letter in the file from the Town that confirms that. Moynihan said the Town regulation for connection of this loop would not apply if this was not a 40B project. There is no requirement for the water main. She said the roadway will be built in accordance with Town standards, so it could accept it as a public road. It is designed with the intention that it is a subdivision road and a public way. She said the status of a road or driveway is not determinate for a water main.

**Public Comment:** Chairman Hurrie cautioned speakers to limit public comment to two minutes each and keep the subject matter to new information.

Attorney Moynihan raised a point of order, and said all written comments had to be submitted one week prior to this hearing. The Zoning Administrator said information submitted after the close of written comments could not be considered.

**James J. Maguire, Mares Pond Drive**
Maguire said marketing was a concern at the last meeting. Would the properties actually sell? The Board said marketing is a business plan, and a risk taken by the developer, and is not in the purview of the Board. Maguire sought to submit two letters into the record. The Board reported that the written record was closed.

There was some Board discussion about the accuracy of the comparable properties presented by real estate agent, David Durfee. The Board said most properties are active, includes one condominium, and there are no properties shown as sold. Attorney Moynihan said the developer has looked at the market and said that the price point wouldn’t be proposed, if there wasn’t a reasonable expectation the lots would sell.

**Thomas Eway, Worcester Court**
Eway said he is in support of the project. He said because of the shortage of available housing, he and his family will have to move out of town to start a life as homeowners.
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Caty Martin, North Falmouth
Martin said she is in support of the project. Martin said market rate housing is unattainable and affordable housing has developed a negative stigma. She said teachers, CNAs and others struggle to find housing. There is a need to achieve the goal for 10% affordable housing, and said without it, the Town will continue to lose year-rounders. She said there is a double standard in the community where people do not speak up about big homes that are empty for ten months. She urged the abutters to reconsider their opposition, noting that higher density is the only way to add to housing stock.

Matt Churchill, 279 Trottingpark Road
Churchill said he is concerned with safety during construction. He said he owns the largest privately-owned farm by acreage in town and the density of the project scares him. He said density and agriculture don’t mix well. If we keep allowing these things in an agricultural zone, we will kill our agriculture.

Robert Leary, Goeletta Drive, Hatchville.
Leary said he is here as a private citizen. He is a member of the Planning Board and Habitat for Humanity (HFH), and has concerns. Derry said HFH proposed a project for ten units, and this Board proposal is more dense. He said the discrepancy is random and arbitrary, and this project should be allowed the same density as the Barrows Road project. He said we need to build and redevelop in areas of higher density, and need to create more rental housing. If the Town is serious about affordable housing it should be able to transfer development rights. Mr. Leary preferred density proximate to services.

Debbie Orbach, Locustfield Road
Orbach said she took offense to Attorney Moynihan’s comment of snob zoning. She said she is concerned with density, water quality in a zone of contribution, inconsistent granting of waivers for water resource, traffic and safety. She said there is a traffic problem on the street and the proposed development would add 24 cars to the neighborhood.

Chairman Hurrie said the term “snob zoning” has been used since the creation of 40B and comes out of legislation years ago.

Martha Holgate
Holgate sited traffic issues, no sidewalk, and inadequate site distances and asked Attorney Moynihan what assurances she could give that there is sufficient site distance.
Rich McClone, father of the developer.
McClone said there is a lack of housing. He spoke about the three properties he owns that are all surrounded by 40B housing projects, which have no fencing. He said they were all well done, and fit into the neighborhoods. He said 6’ and 8’ stockade fences are not attractive.

Frank Carotenuto, 38 Harriette Road
Carotenuto said he is in support of affordable housing but concerned with the density. He said twelve houses with this site distance is a serious safety issue. He urged the Board to: 1. Visit the site, go to the corner and see what the three-way intersection looks like, and 2. Have a full traffic impact study done before making a decision.

Laura Catanach, 15 Wampum Road
She asked if the road in the subdivision would be built to Town standards, and if there would be adequate access for fire trucks.

Ken Gartner, 456 Locustfield Road
Gartner presented a Petition with 150 signatures in opposition, but was told by the Board that the written record was closed. Gartner asked how building twelve units will increase open space. He reported that recreational opportunities using the high school is limited. He said the project needs many waivers, including the water line.

Garrett Cally 917 East Falmouth Highway
Cally said the reason it was hard to find comps is that a three-bedroom home with a yard at that price point does not exist. He said he is looking to find a house to own, but can't find one. He would like to stay and work in the Town.

Adam Enos, 448 Locustfield Road
Enos presented aerial photos to the Board showing the corner of several units and their close proximity to the abutters. He said there is a fence issue. The children will go through the woods through the neighbors' properties. Enos submitted the flash drive with the photos to the Board for K. Foreman's (absent) review. The Chairman agreed to accept the flash drive.

Lucinda Keith, Lakeshore Drive
Keith said she has been a teacher for 41 years. She wanted to return to the Cape to teach and live here, but found on her salary it is impossible to buy a house.

Richard Augusta, 12 Meadow View Drive
Augusta said he is in full support of the project. He said his neighbors' kids and dogs come into his yard all the time, and he doesn't complain about it. He said young families need housing and said the opposition was a shame.

Edward McCormack, Mary Manual Way
McCormack said the issue is not affordable housing, but density and said he feels this project is too dense for this location. He asked how the Board can make a rationale decision about traffic without a traffic study, and urged the Board to require a traffic study. He stated that the fence and traffic study is the cost of doing business.

Chairman Hurrie at this point asked the public to consider only new concerns; not those that had been addressed and covered in the last hearings.

Bill Overholtz, 193 Percival Road
Overholtz said with a 3-1 ratio (market to affordable units), this development will do little to address affordable housing in Town. He said there are density, water resource issues, concerns about waivers and agricultural concerns. He said if you look at the present affordable housing in Falmouth, the Town can make a solid case as proof it is complying with the mandate.

Rod Catanack, 15 Wampum Road
Cattenack sited density, safety concerns along the road, and small driveways that will require additional cars to park on the narrow road. He opined that decreased density would be safer.

Robert Wing, 15 Harriette Road
Wing said he took measurements from Mares Pond to the street level (presented an aerial photo) and it is 30 feet. He asked at what point the surface water goes into Mares Pond, and whether there was an environmental issue here.

Attorney Moynihan responded to the public questions and comments
- Moynihan said the most significant concern is density. She asked the public to keep in mind that as of 2019, there is an approved Affordable Housing Action Plan by the Planning Board and the Select Board. That plan sets out goals and priorities for housing. The Town is mandated to meet the affordable housing target, and right now the Town is far away from that goal of 74 units per acre. She said the density is four units per acre, and that is not arbitrary. It is in compliance with and adopted by the Town and approved by the Department of Housing and Community Development (DHCD). She said the plan says small clustered housing is encouraged.
- This project is not in a DEP zone.
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- As to site distances, a professional engineer has measured the site distances and this plan significantly exceeds what is required.
- The required setback is ten feet from the lot line in this district. Any house, 40B or otherwise, can be built ten feet from the lot line.
- As regards Long Pond, the Water Resource Protection District is broad. There is no criteria in the zoning Bylaw, nor in Title V, about what the standard is. In 2011, the Planning Board started the process of water protection mapping and its use to determine guidelines and impacts for development. In 2011 the map was amended to remove Ashumet and Fresh Pond districts. The Town is recognizing that these districts have been placed on maps but there are really no guidelines about what to do in these districts for septic. We have the zones of contributions to go by for guidance. The Board has to look at this, and decide impacts. There is no evidence of impacts at all. We are outside of Zone C, and can be outside of Zone C for all septic systems. In the absence of any other evidence, this is the guideline we should be applying in this case.
- Traffic has been discussed at length. We have filed trip generation rates that are significantly under the standard. Moynihan said the police have a traffic management plan in place, and the neighbors should call that department. She said the Applicant is willing to make that call, as part of the project.
- Moynihan said the Falmouth Housing Trust has submitted a letter about why this project is so important. There are almost as many people in favor as against.

Board Questions and Comments:
The Board asked:

- **Has the Applicant considered putting a road to extend to Gifford Street as another shortcut?**
  Moynihan said it is too expensive to extend the road to Gifford Street.

- **Has the Applicant ruled out an extension of the water main if the Town can get the appropriate easement?**
  Moynihan said the budget is tight. Costs suggested by the neighbors add up – $40k fencing, $35k water main, $80k for a denitrifying septic (not warranted) – all add up and are not doable. She said the Applicant would try to work with the Town for temporary access.

- **Do the traffic numbers take into account the three-way intersection?**
  Moynihan said the standard for impacts on intersections is 25, and the project doesn’t get over that first threshold. She said the Town Engineer did review this intersection with Mr. Borselli, officials have been out there and seen the roadway and intersection, and the Town Engineer has given his approval.
Attorney Shultz said he spoke to his clients and if the parties came to a halfway point, fencing up to the end of lot 4 and then to the end of lot 10, his clients might be amenable to do the remainder of the fencing, with the condition that maintenance remain with the developer, in perpetuity.

Attorney Moynihan said, if the board approves the proposal as presented, without other cost conditions other than regulatory costs, the Applicant would be agreeable to the proposed fencing to the limits suggested by Attorney Shultz. A 6’ stockade fence between lot 4 and 5 and lots 10 and 9.

Board Discussion:
Because K. Foreman is not here tonight, and will have to review all information presented, the Board has to leave the hearing open for his review. There was some discussion by the Board about K. Foreman’s ability to ask questions of the Town staff, after the hearing is closed. There was also discussion about the application of the Mullen Rule.
Attorney Moynihan said there is nothing new tonight; it is all in the record. She said the Board shouldn’t leave the record open because a member is absent. The Mullen rule is there to expedite hearings, not delay them. The Board members can review the tape and written record. Moynihan asked the Board to close the record and move on, and said there is no violation of the Mullen Rule. She told the Board they can close the hearing, and have the right to choose a date to deliberate, at a later time, within the timeline for approval.
Attorney Shultz said he didn’t believe the Board is prejudiced if the hearing remains open.

A Motion was made by R. Dugan to close the hearing, choose the date of June 13th for deliberation and circulate a draft a week in advance, which goes to both counsels for review.
Second: G. Potamis.
Motion passes 4-0.

Open Meeting:

1. Minutes April 18, 2019 and May 2, 2019
A Motion was made by R. Dugan to approve the minutes of April 18, 2019. Second: E. Van Keuren.
Motion passed 4-0.

A Motion was made by R. Dugan to approve the Minutes of May 2, 2019, to be amended by further discussion at the June 13th deliberation meeting as regards expert witness designation.
Second: G. Potamis.
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Motion passed 4-0.

2. Board Administrative Approval #032-19 WCS, Inc.225 Main Street, Falmouth- Allow seasonal, temporary tent (yearly permit). Taken out of Agenda order.

3. Board Updates – The board welcomes Mary Barry, Alternate.

4. Discuss Date for Future Workshop - tabled until future date and full Board.

5. Board Discussion RE: Zoning Recodification Committee – Nothing significant to report.

6. Future Agenda Items - None

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 May 30, 2019 at 6:30 PM – Selectmen’s Meeting Room – Town Hall

Meeting adjourned at 9:36 PM

Respectfully submitted,
Joanne Robbins, Recording Secretary